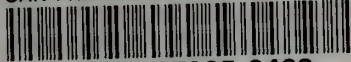


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REFERENCE BOOK

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**Elections Commission Meeting
Wednesday, January 3, 2007 at 7:00 pm
City Hall Room 421**

ORDER OF BUSINESS

1. CALL TO ORDER

2. ROLL CALL

3. FLAG SALUTE

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4. Public Comment on any issue within the Elections Commission's general jurisdiction.

5. Director's Report

- Preview of Possible Supplemental Budget Request

Review of Budget for Fiscal Year 2007-2008

- Status report on the approval of the contract for new voting system.
- Status report on Sequoia's efforts to get new system certified, and status report on development of racked choice capability and expected time of completion of development.
- Update of the Elections Code Amendments before the Board of Supervisors
- Follow-up to Requests for Information from Elections Commission Meeting of November 15, 2006, including: (1) Department responses to emails from the public regarding election day; (2) Provisional Ballot Status Report (numbers accepted/rejected; reasons for rejection; reasons voter needed to cast provisional ballot; and whether provisional ballots are counted with respect to their prior or current address); (3) Report on Department's Response to Complaints filed in Complaint Log; and (4) Report on Standard for Determining Overvotes in 1% Manual tally.

6. Commissioners' Reports

- Meetings with public officials
- Meetings with nongovernmental organizations
- Oversight and Observation activities
- Long-range planning for Commission activities and areas of study

7. OLD BUSINESS

Discussion and possible action to approve the Elections Commission minutes for the meeting of

October 4, 2006.

1. There were technical difficulties with the recording equipment for this meeting and the approval of the minutes were delayed awaiting input from Mr. Lou Dedier regarding a statement he made regarding the monetary amount his company would need for providing new equipment to the DoE in the future. Decision will be made regarding whether to include this statement, if received in time for approval of the minutes at this meeting, or to approve the minutes as they stand without Mr. Dedier's statement.

8. NEW BUSINESS

(a) **Discussion and possible action to approve the Elections Commission minutes for the meeting of December 6, 2006.**

(b) **Discussion regarding possible amendments to the Elections Commission Bylaws:**

- **to include a set date for presentation of the Annual Report to the Commission.** Sec. 4.103 of the San Francisco Charter states that each board and commission of the City and County shall be required by ordinance to prepare an annual report describing its activities, and shall file such report with the Mayor and the Clerk of the Board of Supervisors. S.F. Admin Code Sec. 1.56(c) requires that each board, commission or department head required to prepare an annual report inform the Clerk of the Board of Supervisors in writing of the date by which the annual report shall be posted. (Deputy City Attorney Ann O'Leary)

(ii) **include the Commission's Attendance Policy as part of the Bylaws.** On November 15, 2006, the Elections Commission adopted an attendance policy at the urging of the Mayor and the Board of Supervisors. The Commission will consider whether to adopt the policy as part of its bylaws.

(iii) **to include a policy requiring Commissioners to forward correspondence addressed to a majority of the Commission to the Commission Secretary for inclusion in the public review file.** Under the Brown Act, "writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act . . . and shall be made available upon request without delay." Cal. Gov't Code § 54957.5(a). The Commission will consider establishing a procedure to allow the Secretary of the Commission to retain these public records.

(c) **Discussion and possible action to elect Officers of the San Francisco Elections Commission.** The process shall be as follows: The current president will open nominations first for the office of president of the Elections Commission. When there are no further nominations, the president will close nominations. Public comment will then be sought. At the conclusion of public comment, there will be a roll call vote of all commissioners during which each commissioner shall say the

name of a nominee for whom he or she wishes to vote. Any nominee receiving four votes shall be elected president. The same process will then be followed for the office of vice president. The terms of office for the new officers begin immediately at the conclusion of tonight's meeting. (Elec. Comm. Bylaws, Art. V, Sec. 1(B).)

9. **Discussion regarding items for future agendas**
10. **Public comment** on any issue within the Elections Commission's general jurisdiction.
11. **Announcements**

ADJOURNMENT

A complete packet for this meeting can be found [here](#)

Disability Access

The Elections Commission meeting will be held in Room 421, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA. The Commission meeting room is wheelchair accessible. The closest accessible BART station is the Civic Center Station at United Nations Plaza and Market Street. Accessible MUNI lines serving this location are: #42 Downtown Loop, and #71 Haight/Noriega and the F Line to Market and Van Ness and the Metro Stations at Van Ness and Market and at Civic Center. For information about MUNI accessible services call (415) 923-6142. There is accessible curbside parking adjacent to City Hall on Grove Street and Van Ness Avenue and in the vicinity of the Veterans Building at Van Ness Avenue adjacent to Davies Hall and the War Memorial Complex.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpretation, the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact The Elections Office at (415) 554- 4375 or our TDD at (415) 554-4386 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals. Individuals with chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-6060.

Know your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, committees and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7777 FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

Materials contained in the Commission packets for meetings is available for inspection at the Elections Department Hall Room 48, in the Commission's Public Binder, no later than 72 hours prior to meetings.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300, fax (415) 581-2317; web site at www.sfgov.org/ethics.

**DRAFT AMENDMENTS TO THE BYLAWS OF THE
SAN FRANCISCO ELECTIONS COMMISSION
December 28, 2006**

Note: *Article XIII of the Elections Commission Bylaws allow the Elections Commission to amend the Bylaws by a majority vote of the full Commission after circulating the proposed amendments at least 10 days prior to the meeting where a motion to amend is to be made.*

These drafts are provided pursuant to requests from the Elections Commission over the course of meetings held in October, November, and December 2006. These draft amendments may be discussed at the January 3, 2007 Elections Commission Meeting and, if any Commissioner wishes to put forth a motion to so amend the bylaws, a motion may be made and a vote may be taken at the January 17, 2007 Commission meeting.

(1) Attendance Policy

Add to Article VIII, MEETINGS:

Section 8. Attendance

1. Except in the event of a notified absence (defined below), each member of the Commission is expected to attend each regular, special, or Committee meeting of which he/she is a member.
2. A member's absence shall constitute a "notified absence" where the member, in advance of the meeting, informs the Secretary of the Commission or other person whom the Commission has designated that the member will be absent. An absence due to unforeseen circumstances such as illness or emergency shall also qualify as a notified absence where the member reports such absence to the Secretary as soon as reasonably possible.
3. The Secretary of the Commission shall maintain a record of attendance and shall report all instances of non-notified absences as well as any instance of three consecutive absences of a member from regular meetings to the member's appointing authority.
4. At the end of each fiscal year, the Secretary of the Commission shall submit a written report to the appointing authorities of the Commission's membership detailing each Commission member's attendance at all meetings of the Commission for that fiscal year.

(2) Annual Report

Add to Article IV, COMMISSION'S POWERS AND DUTIES:

M. The Commission shall prepare an annual report describing its activities and shall file such report with the Mayor and the Clerk of the Board of Supervisors consistent with the Commission's duties under Section 4.103 of the San Francisco Charter and Sections 1.56 and 8.16 of the Administrative Code. This annual report shall cover the fiscal year of the City from July 1 through June 30.

Add to Article V, OFFICERS, Section 2. The President:

E. The President shall be responsible for submitting the written annual report to the Commission for approval, summarizing the activities and accomplishments of the Elections Commission during the fiscal year. The President shall present a draft of the annual report to the full Commission in July of each year and the annual report shall be approved by the full Commission no later than August 31 of each year.

(3) Public Records

Add to Article IV, COMMISSION'S POWERS AND DUTIES:

N. In accordance with the Sunshine Ordinance, the Commission shall maintain a public review file containing a copy of any communication which the Secretary of the Commission has distributed to or received from a quorum of the Commission concerning a matter calendared by the body within the previous 30 days or likely to be calendared within the next 30 days. This public record file shall include any correspondence sent to a majority of the Commission in connection with a matter subject to discussion or consideration at a Commission meeting. Commissioners receiving correspondence that is addressed to a majority of the Commission shall forward such correspondence to the Commission Secretary for inclusion in the public record file.

8(b) 2

**ELECTIONS COMMISSION
ATTENDANCE POLICY
Adopted December 6, 2006**

Purpose

The following policy is designed to establish minimum attendance standards for appointed members of the Elections Commission ("Commission"). In the event of any conflict between any provision of this policy and any provision of a City ordinance or other applicable law (collectively, "Laws") governing the Commission that establish more stringent attendance requirements for members of the Commission, the conflicting provision of such Laws shall govern.

Attendance Requirements

Except in the event of a notified absence (defined below), each member of the Commission is expected to attend each regular, special, or Committee meeting of which he/she is a member. The Executive Secretary of the Commission ("Secretary") shall maintain a record of members' attendance.

Notified Absences

A member's absence shall constitute a "notified absence" where the member, in advance of the meeting, informs the Secretary of the Commission or other person whom the Commission has designated that the member will be absent. An absence due to unforeseen circumstances such as illness or emergency shall also qualify as a notified absence where the member reports such absence to the Secretary as soon as reasonably possible. The Secretary shall record as non-notified all absences involving neither advance notice nor unforeseen circumstances.

Report to the Appointing Authority

The Secretary of the Commission shall report all instances of non-notified absences as well as any instance of three consecutive absences of a member from regular meetings to the member's appointing authority.

Annual Attendance Report

At the end of each fiscal year, the Secretary of the Commission shall submit a written report to the appointing authorities of the Commission's membership detailing each Commission member's attendance at all meetings of the Commission for that fiscal year.

15 Nov 2006 Public Participation and the San Francisco Elections Commission

The San Francisco Elections Commission oversees the conduct of public elections in San Francisco to ensure that such elections are fair, free, and honest. The Director of Elections is responsible for day-to-day administration of the Department of Elections and ensures that elections are conducted according to applicable laws, rules, and policies.

The Commission and the Director are both interested in public comments, ideas, and suggestions that might change or improve the conduct of public elections in San Francisco. To that end, the Commission holds regular meetings, usually on the 1st and 3rd Wednesdays of each month, at 7:00 p.m. in City Hall, 1 Dr. Carlton B. Goodlett Place. Committee and special meetings are also held.

The Commission takes public comment on each agenda item at its meetings. Public comment is usually limited to 3 minutes per speaker per item, but may be reduced based on the number of intended speakers. The Commission is interested in written comments from the public, which may be submitted in several ways:

- In person Elections Commission
or by mail: 1 Carlton B Goodlett Pl Ste 48
 San Francisco CA 94102-4634
- By email: elections.commission@sfgov.org
- By fax: 415 554-7494
- By phone: 415 554-4305

The Commission Secretary will forward all comments received to the members of the Commission. Comments are also included in a file, which is available for the public to review. Comments concerning the day-to-day conduct of elections will be forwarded to the Director of Elections. The Director, the Commission, or one or more of its members may or may not respond directly to comments received, depending on the nature of the comments, but it is the Commission's intention that all comments received be reviewed and considered carefully.

More information about the Elections Commission and the Department of Elections may be found at www.sfgov.org/elections, including Commission notices, agendas, and minutes, memoranda from the Director regarding elections administration and voting systems, and current and historical elections information including ballot measures, candidates, outreach, and other useful information.

Commissioners:

Please note that the minutes for the 12/06/06 meeting report the following regarding our discussion on this topic.

***Shirley Rodriques
Elections Commission Secretary***

NEW BUSINESS

6. (b) **Discussion and possible action regarding emails sent to more than a majority of Commission members.** Deputy City Attorney O'Leary reported that she recently advised the Commission regarding actions when a majority of the Commissioners receive communications from anyone. The Brown Act makes clear that writings when distributed to all or a majority of all members by anyone in connection with a matter for discussion at a public meeting or under consideration by the members should be disclosed in a public record. All such communications should be forwarded to the Secretary for retention in the public record file. Currently, the Commission does not have such a policy, however it is free to do so. The Sunshine Act requires that a file that is accessible to members of the public be maintained and these records could be contained in that file if the Commission chooses to make this a policy. An additional concern is that when members receive a communication, particularly when it is a majority, but not all of the members, it is possible that an improper meeting is formed. This is a violation of the Sunshine Act.

The Deputy City Attorney advised the Commission to consider adopting a policy regarding what to do when a majority of its members receive communications. In addition, the Commission may want to make it clear to the public the ways to communicate to the Commission. Deputy City Attorney added that if the "TO" line of an email is addressed to four or more Commissioners, then it is a public record, but if a member of the public chooses to send an email to only two Commissioners, or to an individual Commissioner, then there is no violation, it is not part of the public record.

The President and Deputy City Attorney thanked and commended Mr. David Pilpel for providing his memo of ways members of the public can communicate with the Elections Commission.

Commissioner Townsend said that he was very disturbed by not receiving an email that went to a majority of the Commission members.

Public Comment. *David Pilpel* reminded the Commission that even if only two members receive an email, those two members could be on the same sitting committee, and therefore the communication would be part of the public record.

President Matthews suggested that the policy, when drafted, contain information regarding what Commissioners should do if/when they receive emails for the public.

Commissioner Townsend said that he did not mean that members of the public should change the way they communicate to Commissioners. It is the responsibility of the Commission members to do "the right thing with the communication".

Commissioner Hwang said that it will be his policy not to open any emails from parties he does not know unless that email is forwarded to him by the Commission Secretary.

City and County of San Francisco
Elections Commission

DOCUMENTS DEPT.

Approved: _____
Minutes of the Meeting at City Hall Room 421
January 3, 2007

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1. **CALL TO ORDER.** President Matthews called the meeting to order at 7:05 pm.
2. **ROLL CALL. PRESENT:** Commissioners Gerard Gleason, Richard P. Matthews, Arnold Townsend, Victor Hwang, Michael Mendelson, Jennifer Meek, Tajel Shah and Deputy City Attorney Ann O'Leary, and Deputy Director of Elections Linda Tulett.

3. **Director's Report.**

Deputy Director Linda Tulett reported that meetings with the Budget Analyst to determine the final amount of the DoE's Supplemental Budget Request continue. Final bills from vendors, reimbursements from the school measure and others are still being gathered. The final Supplemental amount should be reached within the next two weeks.

The Deputy Director said that Budget for Fiscal Year 2007 – 2008 was being formulated as Division Managers are putting together their plans for the year. The Mayor's Budget Office has indicated that they want all departments to cut their budget by 3 percent based on their budgets for the previous fiscal year. However, the DoE has additional constraints when compared to last year, for example the new voting equipment it will be implementing this year. She reminded the Commission that in elections, predicting costs like printing ballots for each election year cannot be done at budget submission in February because the size of the ballot is not known until eighty-eight days before an election.

Deputy Director Tulett explained that the contract for the new voting system has not been sent to the Board of Supervisors, and the Director will return at the end of this week to prepare the information. The state has not yet received spending authority from the Department of Finance to finalize the DoE's HAVA (Help America Vote Act) funding. The incoming Secretary of State's office knows that this is a priority. The Board and the Controller's Office may not approve a resolution until the funding (HAVA) is available.

The Deputy Director reported that RCV (Ranked Choice Voting) remains in development and testing. A senior project manager has been assigned to oversee this. The vendor has not provided any deadlines, and probably will not do so until the contract is signed. However, the contract does contain deadlines which the vendor must acquire both federal and state certification with liquidated damages should these deadlines not be met.

The Elections Code Amendments which were before the Board of Supervisors have been fully adopted.

The responses to emails from the public regarding election day activities, the Provisional Ballot Status Report, the Department's response to complaints filed in the Complaint Log, and the Standard for Determining Overvotes in the 1% Manual tally have been provided to the Commission. Note: A copy of these reports is available in the Commission's Public File.

Commissioner Gleason clarified the question regarding the 1% manual tally. He gave an example of a ballot on which a voter has changed, that is crossed out, a vote and entered a different one. Therefore, what is the voter's intent. Does the department correct that voter intent as a "remake"?

Deputy Director Tulett answered "no". She said the one percent manual tally, which used to be contained in the recount section of state law, is now in the semi-official section of the law, and the intent is NOT to remake and recount ballots. The intent is to verify that the voting machine is performing in the manner in which it was programmed. Ballots are not remade and recounted at that time. The one percent tally is the very last step in the certification process.

President Matthews said that there is a new law that came into being on the first of January that will change the 1 % tally. *Deputy Director Tulett* said that she was unaware of such a law, but that there is a new statute about 1 % that will include absentee ballots, but that it does not change the definition of the 1 percent tally.

Public Comment. *Brent Turner* said that "Liquidated Damages", as mentioned in the Director's Report regarding the contract with Sequoia Voting Systems, may be all right in a real estate contract, but in the voting systems contract does not provide him with "the comfort level that we seem to seek when getting a proper vote count." *Steven Hill* asked if Sequoia had announced when their equipment would be sent for testing. *Deputy Director Tulett* responded that she had no information from the vendor on that topic. *Bob Friese* presented information he said he collected from "an entire media search" on the internet regarding positive and negative information regarding Sequoia. *Lee Munson* said he was a Library Commissioner and former Civil Service Commissioner. He asked if Sequoia had finished "coding a test version of their RCV equipment". *Deputy Director Tulett* replied that in 2005 when the RFP was issued, Sequoia demonstrated that their system could handle RCV. Mr. Munson said that the new congress has, as one of its priorities, "the cleaning up of the problem of elections." He said that the City should try to re-certify the ES&S machines because they meet all the requirements, and that the system is already paid for. *Chris Jerdonek* said that he observed the one percent tally, and that the Department should have

the vendor program the machine to flag and set aside all over-voted ballots, or the Department could do that manually, and check all precincts, not just in one per cent of all the precincts.

4. OLD BUSINESS

- (a) **Discussion and possible action to approve the Elections Commission minutes for the meeting of October 4, 1006.**
Commissioner Mendelson MOVED and Commissioner Meek SECONDED. Commissioner Hwang offered a correction of a typo in the minutes. MOTION: Approve the minutes with the correction. A Roll Call Vote was UNANIMOUS.

5. NEW BUSINESS

- (a) **Discussion and possible action to approve the Elections Commission minutes for the meeting of December 6, 2006.**
Commissioner Mendelson MOVED and Commissioner Meek SECONDED.

Public Comment. *Sacha Ielmorini*, said that a portion of her public comments had been left out the minutes. She said that she would like added to her statement, her comments regarding the Democrats taking over on the federal level and the new California Secretary of State and "that there will be a lot of new legislation in terms of voting machines and that the City should wait." She also asked that the comment that Commission Townsend made at that meeting regarding his not being concerned about voters at Starbucks polling places speaking to one another be included. *Robert Frieze* said that the minutes reflecting his statement did not convey his key point, which was that the Alameda contract with Sequoia did not contain the ability for the county to test the "hackability" of the equipment.

President Matthews said that the obligation of the minutes is to capture what the Commission does and the actions of the Commission. He asked the Deputy City Attorney about the obligations of the Commission Secretary regarding summarizing what members of the public say at meetings.

Deputy City Attorney O'Leary said there were two concerns. One was what members of the public have the opportunity to have their statements included in the minutes. There are two options: the minutes can be revised using the recorded minutes, or members of the public can provide written information to supplement what is written in the minutes. Secondly, she advised that the discussion between commissioners regarding voting in public places be included after the Secretary listens, again, to the tape of the meeting.

Commissioner Townsend said that he wanted it on the record that he thinks it is important and worth the time to include public comments. He said that citizens take time to come to meetings and deserve to have the gist of their comments included in the minutes, understanding that the minutes are not a verbatim quote.

Action on this item is POSTPONED to the next meeting.

(b) Discussion regarding possible amendments to the Elections Commission Bylaws:

- (i) to include a set date for presentation of the Annual Report to the Commission.**
- (ii) include the Commission's Attendance Policy as part of the Bylaws.**
- (iii) include a policy requiring Commissioners to forward correspondence addressed to a majority of the Commission to the Commission Secretary for inclusion in the public review file.**

Public Comment. *Steven Hill* commented on (iii). He said that the reason for this being on the agenda was that he sent an email to a Commissioner, who then forwarded his email to a majority of the other Commissioners. He said that citizens should have the right of private correspondence with appointed and elected officials. As the initiator of the correspondence, he did not intend for the email to be part of the public record. Mr. Hill said that the principle could be taken too far in the wrong direction and undermine the ability of citizens to have private correspondence with officials, unless that person wants it to be so entered in the public viewing file.

Commissioner Meek reminded Mr. Hill that he did, indeed, send his email to a majority of the Commissioners (four) initially.

Commissioner Townsend said that whether correspondence is sent to one or four members, a member of the public can have private discussion with any Commissioner and that this is the public's right. The member of the public can ask the Commissioner to keep the correspondence private. However, when the Commissioner decides, "for whatever reason, to send it on to a majority, what could happen, and I'm not suggesting that's what happened in this situation, is you could have four Commissioners and a member of the public legislating without the public or the rest of the Commissioners being aware."

Deputy City Attorney O'Leary clarified the Brown Act. She stated that the Brown Act states that if any correspondence is sent to a majority of the Commission, it is a public record. If an individual of the public sends information to less than a majority of the Commission, it is not a public record. She then explained that if a member of the Commission decides to forward a private correspondence to a majority of the Commission, it is the prerogative of that Commissioner and it then becomes a public record. The protection that the Brown Act is trying to ensure is that information considered by a majority of the Commission is public and that a majority of the Commission is not having a public meeting via email.

(b) **Discussion and possible action to elect Officers of the San Francisco Elections Commission.**

For the office of President, Commissioner Townsend nominated Commissioner Meek. There were no further nominations.

Public Comment. *Steven Hill* said that he appreciated the Commission's past policy of allowing public comment on all items before the Commission, not just those that required action, and that he hoped this would continue in the future under the new president. *Brent Turner* agreed with the previous comment and added that he hoped the president keeps an open mind regarding open source code, and continues to respond the citizens who come to these meetings.

The Roll Call Vote was UNANIMOUS.

For the office of Vice President, Commissioner Hwang nominated Commissioner Townsend. There were no further nominations.

The Roll Call Vote was UNANIMOUS.

President *Matthews* reminded the Commission that these offices take effect immediately upon the conclusion of this meeting, and thanked the Commission for the opportunity given him to serve as President for the past year and a half.

6. **Discussion regarding items for future agendas.**

Commissioner Mendelson suggested that the Deputy City Attorney consider an in-house retreat, perhaps in April, devoted to the duties and obligations of Commissioners. He said that this would help the public understand the Commission's functions.

Commissioner Shah asked for more information about the supplemental budget request. She said that the DoE's budget was actually cut last year and she wanted to know if other departments had similar cuts. She said she wanted to know which departments were getting increases in their budgets. This information might assist the Department in its budget strategy. Deputy Director Tulett answered in the affirmative to Commissioner Shah's idea.

Commissioner Townsend said that he was displeased with the size and accommodations of the meeting room (City Hall 421) for this meeting and asked the Commission Secretary to look into getting a location that could comfortably accommodate the seven member Commission and an audience the size of tonight's (approximately 20 members of the public).

Public Comment. *Chris Jerdonek* asked that the Commission look into counting ballots with voter intent in mind, particularly when the voter changes a vote by

marking out a vote. *President Matthews* asked Mr. Jerdonek if he meant the discussion should cover ALL ballots with changes. Mr. Jerdonek answered in the affirmative. *Brent Turner* wanted to know if "experts" available to him could be invited to present information at an upcoming meeting. *Bob Frieese* asked for the opportunity to see the Sequoia Contract before it is signed. *Alexander Munson* said that he agreed with Mr. Frieese's request. *Deputy City Attorney O'Leary* reminded everyone that the contract, because it is for over \$10M has to go before the Board of Supervisors, and at that time a resolution is put forward at the contract's introduction. Then the Board takes thirty or more days to consider the contract. At the time the resolution is put forward and introduced, it is a public document. Deputy City Attorney O'Leary advised the Commission to make that contract available at its first meeting after introduction at the Board of Supervisors. She reminded everyone that there will be public comment at the Board of Supervisors when they consider the contract.

7. **Public Comment.** *Sacha Ielmorini* requested that the City move forward with the re-certification of the current voting system for the next election because, she said, "there is a large possibility that we may need to use it... because there is a new Secretary of State coming in and we should see what her standards are going to be." *Brent Turner* said that the Commission should define its role because he thinks there is confusion regarding the authority and role of the Commission in advising the Board of Supervisors. *An unidentified speaker* said that the "EAC adopted a new voting system testing and certification program." *Steven Hill* said that it wouldn't affect the Sequoia contract for the Commission or the Director to ask ES&S to go ahead, just in case, Sequoia is not ready, and get permission from the Secretary of State to use their equipment for one more year.

Commission Secretary Shirley Rodriques asked the audience to give her any further information regarding their public comments in the December 6, 2006 minutes.

ADJOURNMENT at 8:05 pm.

**Elections Commission Meeting
Wednesday, January 17, 2007 at 7:00 pm**

City Hall Room 408

ORDER OF BUSINESS

1. **CALL TO ORDER**

2. **ROLL CALL**

DOCUMENTS DEPT.

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1. **FLAG SALUTE**

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4. **Public Comment** on any issue within the Elections Commission's general jurisdiction.

5. **Director's Report**

- Preview of Possible Supplemental Budget Request
- Preview of Budget for Fiscal Year 2007-2008
- Status report on the approval of the contract for new voting system.
- Status report on Sequoia's efforts to get new system certified, and status report on development of racked choice capability and expected time of completion of development.

6. **Commissioners' Reports**

- Meetings with public officials
- Meetings with nongovernmental organizations
- Oversight and Observation activities
- Long-range planning for Commission activities and areas of study

7. **OLD BUSINESS**

(a) Discussion and possible action to approve the Elections Commission minutes for the meeting of December 6, 2006.

(b) Discussion and possible action to approve amendments to the Elections Commission Bylaws:

- **to include a set date for presentation of the Annual Report to the Commission.**
Sec. 4.103 of the San Francisco Charter states that each board and commission of the City and County shall be required by ordinance to prepare an annual report describing its activities, and shall file such report with the Mayor and the Clerk of the Board of Supervisors. S.F. Admin Code Sec. 1.56(c) requires that each board, commission or department head required to prepare an annual report inform the Clerk of the Board of Supervisors in writing of the date by which the annual report shall be posted. (Deputy City Attorney Ann O'Leary)
- **include the Commission's Attendance Policy as part of the Bylaws.** On November 15, 2006, the Elections Commission adopted an attendance policy at the urging of the Mayor and the Board of Supervisors. The Commission will consider whether to adopt the policy as part of its bylaws.
 - (iii) **to include a policy requiring Commissioners to forward correspondence addressed to a majority of the Commission to the Commission Secretary for inclusion in the public review file.** Under the Brown Act, "writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act . . . and shall be made available upon request without delay." Cal. Gov't Code § 54957.5(a). The Commission will consider establishing a procedure to allow the Secretary of the Commission to retain these public records.

8. **NEW BUSINESS**

- (a) **Discussion and possible action to approve the Elections Commission minutes for the meeting of January 3, 2007.**

- 9. **Discussion regarding items for future agendas**
- 10. **Public comment on any issue within the Elections Commission's general jurisdiction.**
- 11. **Announcements**

ADJOURNMENT

Complete Commissioners' Packet for January 17, 2007

Disability Access

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Know your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, committees and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7777; FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

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**DRAFT AMENDMENTS TO THE BYLAWS OF THE
SAN FRANCISCO ELECTIONS COMMISSION
January 17, 2007**

Note: *Article XIII of the Elections Commission Bylaws allow the Elections Commission to amend the Bylaws by a majority vote of the full Commission after circulating the proposed amendments at least 10 days prior to the meeting where a motion to amend is to be made.*

These drafts are provided pursuant to requests from the Elections Commission over the course of meetings held in October, November, and December 2006. These draft amendments may be discussed at the January 3, 2007 Elections Commission Meeting and, if any Commissioner wishes to put forth a motion to so amend the bylaws, a motion may be made and a vote may be taken at the January 17, 2007 Commission meeting.

(1) Attendance Policy

Add to Article VIII, MEETINGS:

Section 8. Attendance

1. Except in the event of a notified absence (defined below), each member of the Commission is expected to attend each regular, special, or Committee meeting of which he/she is a member.
2. A member's absence shall constitute a "notified absence" where the member, in advance of the meeting, informs the Secretary of the Commission or other person whom the Commission has designated that the member will be absent. An absence due to unforeseen circumstances such as illness or emergency shall also qualify as a notified absence where the member reports such absence to the Secretary as soon as reasonably possible.
3. The Secretary of the Commission shall maintain a record of attendance and shall report all instances of non-notified absences as well as any instance of three consecutive absences of a member from regular meetings to the member's appointing authority.
4. At the end of each fiscal year, the Secretary of the Commission shall submit a written report to the appointing authorities of the Commission's membership detailing each Commission member's attendance at all meetings of the Commission for that fiscal year.

(2) Annual Report

Add to Article IV, COMMISSION'S POWERS AND DUTIES:

M. The Commission shall prepare an annual report describing its activities and shall file such report with the Mayor and the Clerk of the Board of Supervisors consistent with the Commission's duties under Section 4.103 of the San Francisco Charter and Sections 1.56 and 8.16 of the Administrative Code. This annual report shall cover the fiscal year of the City from July 1 through June 30.

Add to Article V, OFFICERS, Section 2. The President:

E. The President shall be responsible for submitting the written annual report to the Commission for approval, summarizing the activities and accomplishments of the Elections Commission during the fiscal year. The President shall present a draft of the annual report to the full Commission in July of each year and the annual report shall be approved by the full Commission no later than August 31 of each year.

(3) Public Records

Add to Article IV, COMMISSION'S POWERS AND DUTIES:

N. In accordance with the Sunshine Ordinance, the Commission shall maintain a public review file containing a copy of any communication which the Secretary of the Commission has distributed to or received from a quorum of the Commission concerning a matter calendared by the body within the previous 30 days or likely to be calendared within the next 30 days. This public record file shall include any correspondence sent to a majority of the Commission in connection with a matter subject to discussion or consideration at a Commission meeting. Commissioners receiving correspondence that is addressed to a majority of the Commission shall forward such correspondence to the Commission Secretary for inclusion in the public record file.

City and County of San Francisco
Elections Commission
Approved: February 7, 2007
Minutes of the Meeting at City Hall Room 408
January 17, 2007

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1. **CALL TO ORDER.** President Jennifer Meek called the meeting to order at 7:02 pm.
2. **ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Arnold Townsend, Victor Hwan Michael Mendelson, Tajel Shah and Deputy City Attorney Jon Givner, and Director of Electic John Arntz. EXCUSED: Commissioner Richard P. Matthews.
3. **Public Comment.** *Carol Bella* passed out information regarding testing of voting machines *Sacha Ielmorini* said that she wants the Department to certify the voting machines that were used in the last election for use in the upcoming election.

4. **Director's Report.**

Director John Arntz reported that the DoE will go forward with a supplemental budget and that the amount requested is not yet finalized. The shortfall was not a surprise because the five-card ballot election last year had only been funded as a four-card ballot election. There were other unexpected costs. For example, the security and structural issues in some facilities as the ballots were arriving at 240 Van Ness and at Brooks Hall, and the break-in at the warehouse at Pier 29. The numbers are expected to be finalized with the Mayor's Budget Office by this Friday and the Commission will be informed of the amount by next week.

The Director said that he hoped to have the Fiscal Budget draft completed within the week as well. This budget will be submitted to the Mayor's Office by February 21.

Commissioner Shah asked the Director about the Controller's audit, asked if it would effect budget negotiations and how could the Commission help the Department. Director Arntz replied that current staffing is a result of that audit. He said it has been a fight, over the years, to get the Controller to understand that the Department needs knowledgeable staff who have demonstrated their expertise in San Francisco elections, and have produced dependable results. He suggested that the Commission talk about comparisons made between San Francisco and other local counties, and allow the Director to explain the ramifications of proposed cuts to the DoE's budget as a result of the Controller's audit.

Director Arntz said that the Commission can engage the Mayor's Office and the Board of Supervisors in a conversation about the funding for the DoE. In the past, the Commission has asked the Department to provide responses about the process. The Director asked that the Commission consider "getting out in front" and starting to have conversations with the Mayor and Board, and making it known that the budget for the DoE should be a higher priority for the City than how the Department has been treated in the past.

Commissioner Mendelson asked the Director if he would support a Charter Amendment that would specify different rules for funding of the DoE? Director Arntz replied that he would prefer to engage in conversations about the past funding record. Other departments have been able to keep their funding consistent, he said, however, the DoE has been

consistently underfunded. As a result, the DoE has been told that is overspending its budget. But there wasn't enough funding at the start. If the conversations with the Mayor's Office and the Controller are unsuccessful, then the Commission could consider a Charter Amendment.

Commissioner Mendelson asked if the Commission could take a position on part-time employees being placed under special status with Human Resources? Director Arntz said that this subject has come up in the past, and the Commission could add that subject to its conversation with the Mayor's Office, the Board and DHR.

Director Arntz reported that the contract with Sequoia Voting Systems has been completed and submission of the contract to the Board of Supervisors is expected next week. Since the contract is for over \$10M, the Board must approve the resolution before the City and Sequoia can move forward with the contractual agreement. Once the contract is introduced, it will be assigned to committee, then to the Board's Budget Analyst for review and report, then the report will be issued back to the committee to hold a hearing. Next the Committee will decide whether to make a recommendation regarding the contract. Then the contract could move to the full Board. The Director estimated that the process will take at least several weeks.

Director Arntz reported on the certification for RCV (Ranked Choice Voting). He said that Sequoia has completed approximately 80% of the process for RCV development for its system that will be used in San Francisco.

5. OLD BUSINESS

- **(a) Discussion and possible action to approve the Elections Commission minutes for the meeting of December 6, 2006.** Commissioner Mendelson MOVED and Commissioner Townsend SECONDED this item. A roll call vote to approve the minutes was UNANIMOUS.
- (b) Discussion and possible action to approve amendments to the Elections Commission Bylaws:**
 - **to include a set date for presentation of the Annual Report to the Commission.** Commissioner Mendelson MOVED and Commissioner Shah SECONDED this item. A Roll Call Vote to approve this amendment was UNANIMOUS.
 - **(ii) include the Commission's Attendance Policy as part of the Bylaws.** Commissioner Mendelson MOVED and Commissioner Shah SECONDED this item. A Roll Call Vote to include this Attendance Policy in the Bylaws was UNANIMOUS.
 - **(iii) to include a policy requiring Commissioners to forward correspondence addressed to a majority of the Commission to the Commission Secretary for inclusion in the public review file.** Commissioner Shah MOVED and Commissioner Mendelson SECONDED this item. *Commissioner Gleason* offered an amendment to the language in the agenda to include the word "knowingly" in the phrase "forward

correspondence knowingly addressed". Commissioner Mendelson SECONDED Commissioner Gleason's amendment.

Public Comment. *David Pipel* said that the first half of the language to be included in the Bylaws "a matter calendared by the body within the previous thirty days or likely to be calendared within the next thirty days" is ambiguous. He said that it should cover anything even beyond the 30 days. *Deputy City Attorney Givner* called the Commission's attention to the actual wording of the Bylaws addition proposed on page 7(b)2 of this meeting's packet.

Commissioner Gleason said that his amendment would come in the final sentence which would then read "Commissioners knowingly receiving correspondence that is addressed..."

Commissioner Townsend said that he proposes removal of the 30-day provision included in the proposed Bylaw Article, and read "any item within the Elections Commission's purview".

Commissioner Mendelson MOVED to table item (iii) until the next meeting to allow the City Attorneys to edit the proposed amendment. THIS ITEM IS TABLED UNTIL THE NEXT COMMISSION MEETING.

6. NEW BUSINESS

(a) Discussion and possible action to approve the Elections Commission minutes for the meeting of January 3, 2007. Commissioner Mendelson MOVED and Commissioner Gleason SECONDED this item. A Roll Call Vote was UNANIMOUS to approve these minutes.

7. Discussion regarding items for future agendas.

Commissioner Mendelson proposed that the Commission draft a statement of policy that codes, and elections codes be made public. *Commissioner Gleason* proposed a discussion regarding over-voted ballots. *President Meek* advised the Commission that Commissioner Matthews has requested that there be a line item in the budget for the Commission. *President Meek* proposed that an EAC (U. S. Elections Assistance Commission) representative attend a Commission meeting to go over new procedures for electronic voting. *Commissioner Shah* proposed discussion of the Commission's strategy concerning passage of the budget as well as the Controller's report.

Public Comment. *David Pipel* asked about the Election Plan for November 2006 Review which has not happened. He reminded the Commission that the Budget and Policy Committee was to review the plan. *Mr. Pipel* also suggested updates from Director Arntz about Secretary of State's Office's new administration and significant changes in state elections law. *Sacha Ielmorini* said the certification of the current elections equipment should be on a future agenda. *Brent Turner* proposed an "open source demonstration" at a future Elections Commission meeting.

ADJOURNMENT at 7:38 pm.

**Elections Commission Meeting
Wednesday, February 7, 2007 at 7:00 pm**

City Hall Room 421

ORDER OF BUSINESS

1. **CALL TO ORDER**

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2. **ROLL CALL**

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3. **FLAG SALUTE**

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4. **Public Comment** on any issue within the Elections Commission's general jurisdiction.

5. **Director's Report**

- Ballot Distribution
- Budget/Personnel
- Campaign Services
- Outreach
- Poll Locating/ADA
- Poll Worker Division
- Technology Division
 - Voter Services
 - Update on New Voting System Contract
 - Update on back up plan for New Voting System

6. **Special Presentation on the 2007-08 Department of Elections Budget.** (Director Arntz)

1. **Greg Wagner, Fiscal and Policy Analyst, in the Mayor's Office of Public Policy and Finance, will answer questions from the Commission regarding the 2007-08 Department of Elections Budget.**

8. **Commissioners' Reports**

- Meetings with public officials
- Meetings with nongovernmental organizations
- Oversight and Observation activities
- Long-range planning for Commission activities and areas of study

9. OLD BUSINESS

(a) Discussion and possible action to approve an amendment to the Elections Commission Bylaws:

- (iii) to include a policy requiring Commissioners to forward correspondence addressed to a majority of the Commission to the Commission Secretary for inclusion in the public review file. Under the Brown Act, "writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act . . . and shall be made available upon request without delay." Cal. Gov't Code § 54957.5(a). The Commission will consider establishing a procedure to allow the Secretary of the Commission to retain these public records.

10. NEW BUSINESS

- (b)Recommendation from the Budget and Oversight of Public Elections Committee regarding its review of the Elections Plan for the November 7, 2006 Consolidated General Election.
- (c)Discussion and possible action to evaluate the implementation of the Election Plan for the November 7, 2006 Consolidated General Election.
- (d)Recommendation from the Budget and Oversight of Public Elections Committee regarding its review of including appropriations for Elections Commission activities in the Department of Elections' Supplemental Budget request for fiscal year 2006-07.
- (e)Recommendation from the Budget and Oversight of Public Elections Committee regarding including appropriations for Commission activities in the Department of Elections' Proposed Budget for fiscal year 2007-08.
- (f)Discussion and possible action to approve the inclusion of appropriations for Elections Commission activities in the Department of Elections' Supplemental Budget request for fiscal year 2006-07.

- (g) Discussion and possible action to approve the inclusion of appropriations for Elections Commission activities in the Department of Elections' Proposed Budget for fiscal year 2007-08.
- (h) Discussion and possible action to approve a commission general policy statement regarding transparency in all San Francisco Elections Department activities involving voting systems technologies as well as providing voting systems security.
- (i) Discussion and possible action regarding the disposition of over-voted ballots.
- (j) Discussion and possible action to resume one meeting a month for the full Elections Commission.
- (k) Discussion and possible action regarding a retreat for the Commission.

11. Discussion regarding items for future agendas
12. Public comment on any issue within the Elections Commission's general jurisdiction.
13. Announcements

ADJOURNMENT

Complete Commission Packet for February 7, 2007

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Election Plan
City and County of San Francisco

*Consolidated General Election
November 7, 2006*

Introduction

The San Francisco Department of Elections (DOE) must:

"...Conduct all public federal, state, district and municipal elections in the City and County...[This includes] voter registration; the nomination and filing process for candidates to City and County offices; the preparation and distribution of voter information materials; ballots, precinct operations and vote count; the prevention of fraud in such elections; and the recount of ballots in cases of challenge or fraud."

(San Francisco Charter, sec. 13.104)

Organizing and running an election in the City and County of San Francisco requires staffing of 561 polling places. Sites must be located and precinct workers recruited and trained for each precinct. Voter information pamphlets and sample ballots must be prepared and distributed. Absentee ballots must be sent to voters who have requested them or who are registered as permanent Absentee voters. Additionally, in advance of the election, voting machines must be tested, and Deputy Sheriffs must be assigned and coordinated to pick up voted ballots for transport to the holding facility after the polls close. Ballots and equipment must be transported to each site and assembled. Poll workers are to arrive by 6:00 a.m. to set up the polling place, then at 7:00 a.m. start to process voters as they arrive. The pollworkers are to post and update a list of voters registered in the precinct who have voted on an hourly basis. Once the polls close at 8:00 p.m., the poll workers must print two receipt tapes that indicate all votes cast with the Optech Eagle.

At the close of Election Day, inspectors are to remove the Memory pack from the Optech Eagle and place it along with one receipt tape, into a special bag. A Parking and Traffic Control Officer retrieves it and transports it to an uplink facility. Inspectors must post the second receipt outside the polling place. Voted ballots must be removed from the Optech Eagle scanner and Red Box and readied for transport to a holding facility. Pollworkers are to reconcile the number of unused ballots remaining with the number delivered to the precinct and the number used with the Ballot Card Statement (BCS). A copy of the BCS must be posted outside polling place along with the Optech Eagle receipt. Pollworkers must take down the voting booths and ready the equipment and supplies for later pick up.

Provisional and Absentee ballots that have been dropped off at a polling place are delivered to the DOE office in City Hall. Department staff are to process all Provisional and Absentee ballots to determine whether it is to be accepted or challenged. Challenged ballots are neither opened nor counted whereas accepted ballots are opened, extracted and prepared for tabulation. California election law allows 28 days following an election for the election official to conduct the official canvass and certify the election results.

Between elections, DOE must conduct voter file maintenance of the following to ensure the voter rolls are current and as accurate as possible. This maintenance includes:

- Purging of deceased individuals;
- Purging of duplicate registrations;
- Purging of individuals in prison or on parole for the conviction of a felony;
- Purging of voters who have moved out of county; and
- Cross-checking our files with those of the Secretary of State.

I. Governing of Election

The upcoming election shall be governed in accordance with:

- California Election Code;
- San Francisco Municipal Elections Code and applicable Charter Amendments;
- United States Voting Rights Acts (1965)
- United States Help America Vote Act (2002)
- United States Americans With Disabilities Act (1990);
- Previously established administrative procedures which the San Francisco Department of Elections and the Director of Elections deem to be best practices.

All operations of the upcoming election shall be in accordance with one, some or all of the above listed guidelines, except for any new procedures or practices which are not covered by any of the above guidelines, but which could affect the security of ballots or confuse a voter's understanding or perception of the conduct of the election such as the introduction of any new voting equipment or procedures.

II. New Equipment

Beginning January 1, 2006, the Help America Vote Act (HAVA, 2002) requires all polling places throughout the country to provide equipment that allows voters with, but not limited to, sight and mobility impairments to vote independently and privately. To meet this requirement, the DOE has purchased the AutoMARK from Elections Systems and Software (ES&S). This election is the second time San Francisco voters have used the AutoMARK. The device was first used for the November 2005 election. The AutoMARK, often referred to as a "ballot-marking" machine is not a tabulator and does not count votes or record any information from the ballot, but simply assists voters in marking their selection on paper ballots. The Department will tally votes from the Eagle and AutoMARK independently of one another; voted AutoMARK ballots will be secured and brought back to City Hall on election night and will be tallied using a central count machine.

III. New Practices

This is the 3rd Election in San Francisco using Ranked Choice Voting. The previous use of the Ranked Choice Voting was during the November 2, 2004 Consolidated General Election and the November 6, 2005 Consolidated Municipal Election.

- AutoMARK Cards Re-made onto Eagle Cards

At the polling places, voters will place their voted AutoMARK ballots in to the same box as Absentee voters place their voted absentee ballots. AutoMARK ballots are to be "Remade" and processed at the Central Count location at City Hall using the IV-C machines. The ballots will be sorted by precinct number and processed by the IV-C machine. A transport log is to be completed when ballots are moved from one processing room to another to ensure the chain of custody. During the ballot count, any ballot that cannot be processed by the IV-C is set aside for remake, similar to the way Absentee Optech Eagle and Provisional ballots are processed for remake.

- Sheriff's Deputies and Parking Control Officers to retrieve Memory Cards

For the November 7, 2006 Consolidated General Election, the Department of Parking and Traffic's Parking Control Officers (PCO's) will assist the Department of Elections with the retrieval of the Memory packs and PCM-CIA cards at the polling places on Election Night. The PCM-CIA cards contain the ranked-choice voting results. After the polls close and two receipt tapes indicating all votes cast in the Optech Eagle are printed, the Inspector (Pollworker) removes the Memory pack from the Optech Eagle and places it into a special anti-static bag, and then seals that bag. The PCO's travel prearranged routes and retrieve the Memory packs from the polling places. While the PCO's are collecting the memory packs at the polls, they will also remove and collect the PCM-CIA cards. The PCM-CIA cards are placed in clear plastic covers. After completing routes that consist of no more than ten stops, the PCOs will transport the Memory packs and PCM-CIA cards to their assigned Uplink site. At the Uplink Sites, the Deputy Sheriffs and Election workers will log the memory packs and PCM-CIA cards received. Data on the memory packs are transmitted to the City Hall from the Uplink Sites. At the end of Election night, the memory packs and PCM-CIA cards are delivered to the Central Counting Room at City Hall by Deputy Sheriffs. In some instances, Deputy Sheriffs also assist with the memory pack and PCM-CIA cards collection.

IV. Election Summary

1. Offices and Local Ordinances and Charter Amendment To Be Voted On

The following state and local elective offices will be in contention:

Federal and State Offices

Governor; Lieutenant Governor; Secretary of State; Controller; Treasurer; Attorney General; Insurance Commissioner; Member, State Board of Equalization, District 1; U.S. Senator; U.S. Representative to Congress; Districts 8 and 12; State Senator, District 8; Member, State Assembly, Districts 12 and 13.

Judicial Offices

Two Associate Justices of the Supreme Court; Presiding Justice, Court Of Appeal, District 1, Division 1; Associate Justice, Court Of Appeal, District 1, Division 1; Associate Justice, Court Of Appeal, District 1, Division 2, two seats; Presiding Justice, Court Of Appeal, District 1, Division 3; Associate Justice, Court Of Appeal District 1, Division 3; Presiding Justice, Court Of Appeal, District 1, Division 4; Associate Justice, Court Of Appeal, District 1, Division 4, two seats; Presiding Justice, Court Of Appeal, District 1, Division 5

District Offices

BART Director, District 8

School District and College District Offices

Three members of the Board of Education for the San Francisco Unified School District, and three members of the Community College Board

City and County Offices: Ranked-Choice Voting

Assessor-Recorder; Public Defender; Member, Board of Supervisors, Districts 2, 4, 6, 8 and 10.

This is the third election in San Francisco using ranked-choice voting. The first use of ranked-choice voting was during the November 2, 2004 election. The second use was during the November 6, 2005 election.

Bond Measures

A - School Bonds

Charter Amendments

B - Allowing Members of Boards and Commissions to Participate in Meetings by Teleconference due to Pregnancy and Related Conditions; Adoption of Parental Leave Policies

C - Setting Salaries of Certain Local Elected Officials

Local Ordinances

D - Disclosure of Private Information

E - Parking Tax Ordinance

F - Paid Sick Leave Ordinance

G - Limitations on Formula Retail Stores

H - Relocation Assistance for No Fault Tenant Removal

Declarations of Policy

I - Adopting a Policy that the Mayor Appear Monthly at a Board of Supervisors Meeting

J - Adopting a Policy Calling for the Impeachment of President Bush and Vice President Cheney

K - Adopting a Policy Relating to the Housing Needs of Seniors and Disabled Adults

2. Voter Registration: 409,406 as of September 8, 2006

3. Number of precincts: 580

Of the 580 precincts, 19 are mail-in only.

4. Number of pollworkers required: Approximately 2,500

For the November 7, 2006 Consolidated General Election the DOE will staff each polling place with four (4) pollworkers: one (1) Inspector and three (3) Clerks. In addition to the approximately 2,500 pollworkers assigned to the precincts, the DOE will recruit 140 stand-by pollworkers, who will be stationed at City Hall and dispatched as needed on Election Day.

It is the DOE's plan to expand our services to voters who need language assistance on Election Day and exceed the 3% standard imposed by California Elections Code, Chapter 4, Article 1, Section 12303 (b)-(c). We will place Chinese- and Spanish-speaking pollworkers at precincts as follows:

- At least one bilingual pollworker in every precinct where 10 or more registered voters have requested election material in Chinese or Spanish;
- At least two bilingual pollworkers in every precinct where 75 or more registered voters have requested election material in Chinese or Spanish; and
- Three to four bilingual pollworkers in every precinct where 120 or more registered voters have requested election material in Chinese or Spanish.

In addition to the aforementioned bilingual pollworkers, the Department further targets precincts that may require language assistance by placing Chinese- and Spanish-speaking pollworkers in every precinct where 25 or more registered voters were born in Chinese- and Spanish-speaking countries.

In summary:

- 340 precincts (61% of 561 polling places) will be staffed with Chinese-speaking pollworkers (450 pollworkers total); and
 - 105 precincts (19% of 561 polling places) will be staffed with Spanish-speaking pollworkers (105 pollworkers total).
5. Voting equipment to be used: At precincts, the Optech Eagle and AutoMARK machines will be used. At City Hall, and the Optech IV-C will be used.
 6. Number of Permanent Absentee Voters: 128,056 as of September 8, 2006.:
 7. Ballots:
 - There will be forty-one ballot types, based on the combinations of Congressional, State Senate and State Assembly, BART and Supervisorial districts that comprise San Francisco and the rotations of candidate names required by California Elections Code;
 - Each voter will receive five ballot cards; and
 - The ballots will be trilingual: English, Chinese and Spanish.
 8. Voter Information Pamphlet and Sample Ballot:
 - English Voter Information Pamphlets will be mailed beginning in early October. Although the legal mailing deadline for this election is 21 days before the election (October 17th), we plan to complete the mailing by October 10th, 28 days prior to the election. (Normally, our target date is 29 days prior to the election, but October 9th is a legal holiday).

- Chinese and Spanish Voter Information Pamphlets will be mailed beginning on October 19.

V. Critical Dates and Deadlines

- Candidate Filing Deadlines
 - Signatures in Lieu of Filing Fee: July 27, 2006
 - Nomination Period: August 11, 2006
 - Statement of Write-in Candidacy: October 24, 2006
- Write-in Candidate deadlines: October 24, 2006
- Ballot argument deadlines:
 - Proponent/Opponent Arguments: August 18, 2006 by Noon
 - Rebuttal to Proponent/Opponent Arguments: August 22, 2006 by Noon
 - Paid Ballot: August 23, 2006 by Noon
- Public Inspection period of Candidate Qualification Statements: August 12 – August 22, 2006 by Noon
- Public Inspection period of Ballot Designations: August 12 – August 22, 2006 by Noon
- Public Inspection period of Ballot Digests, Financial Analyses and Ballot Questions: August 15 – August 25, 2006 by Noon
- Public Inspection Period of Proponent and Opponent Ballot Arguments for District Bond Measure: August 18 – August 28, 2006 by 2:00 p.m.
- Public Inspection period of Proponent and Opponent Arguments: August 22 – September 4, 2006 by Noon
- Public Inspection period of Rebuttal Arguments: August 24 – September 4, 2006 by Noon
- Public Inspection period of Paid Arguments: August 25 – September 4, 2006 by Noon
- Special Circumstance Extended Public Inspection period for Candidate Qualification Statements and Ballot Designations: August 16 – August 26, 2006 by Noon
- Begin mailing ballots for overseas voters: September 8, 2006
- First day for Early Voting: October 10, 2006 from 8 a.m. to 5 p.m. Early voting on weekends begin October 28th and 29th, 2006 and November 4th and 5th 2006 from 10 a.m. to 4 p.m.
- First day for mailing Absentee ballots: October 10, 2006
- Deadline for Voter Registration: October 23, 2006

- Last day to mail Voter Information Pamphlet: October 28, 2006 but mailings can begin as early as 40 days prior to November 7, 2006
- Last day to request Absentee ballot be mailed: October 31, 2006
- First day processing Absentee ballots: October 31, 2006
- Election Day: November 7, 2006 from 7 a.m. to 8 p.m.
- First day of processing Provisional ballots: November 8, 2006
- Deadline for Certification of Election: December 5, 2006

VI. Security and Distribution of Ballots Before and On Election Day

1. Absentee Optech Eagle Ballots/Absentee Generic Optech Eagle Ballots/Absentee Generic AutoMARK Ballots
 - Location of fulfillment of unvoted Absentee ballots
 - Unvoted Absentee ballots will be secured in Brooks Hall located in the basement of the Bill Graham Civic Auditorium, prior to delivery to the Evans Street post office.
 - Unvoted Absentee generic Optech Eagle and generic AutoMARK ballots will be secured in Room 59 at City Hall.
 - The Department will send Optech Eagle ballots for voters requesting a ballot by mail
 - Permanent Absentee ballots: Oct 10, 2006
 - Follow-up Absentee ballot requests would immediately follow the mailing of Permanent Absentee ballots.
 - Location of secured, returned, voted Absentee ballots
 - All early voted ballots will be secured in City Hall.

2. Precinct Optech Eagle and AutoMARK Ballots/Precinct Generic and Precinct AutoMARK Generic Ballots

Unvoted Optech Eagle, precinct AutoMARK, precinct generic and precinct AutoMARK generic ballots are staged and distributed to polling place inspectors at 240 Van Ness Avenue, one block south of City Hall. Precinct Optech Optech Eagle and AutoMARK ballots will be distributed to the polling place inspectors upon their completion of training classes beginning Wednesday, November 1, 2006 through Saturday, November 4, 2006. If inspectors cannot pick up their ballots after training class, the Department will deliver the cards to their residence.

3. Securing Voted Ballots During Election Day

For this election, there will be no mid-day pick up of voted ballots. The bins attached to the Optech Optech Eagle optical scan machines contain internal barriers which separate ballots that have votes for write-in candidates.

VII Transporting and Securing Precinct Ballots and Vote-Recording Devices after the Polls Close on Election Day

1. Vote-Recording Devices

- Optech Eagle Memory Packs (or similar device)
- Locations of Central Ballot Count uplinks

The Optech Eagle contains a memory device or "Memory Pack" which records how ballots were voted and PCM-CIA cards record how RCV ballots were voted.

The Department of Parking and Traffic's Parking Control Officers (PCO's), working under the direction of the Sheriff's office, will assist in the retrieval of the Memory packs at the polling places on Election Night. After the polls close and two receipt tapes indicating all votes cast in the Optech Eagle are printed, the inspector removes the Memory pack from the Optech Eagle and places it into a special anti-static bag, and then seals that bag. The PCO's travel prearranged routes and retrieve the Memory packs from the polling places. After completing routes that consist of no more than ten stops, the PCOs will transport the Memory packs to "uplink sites"; uplink sites are essentially modem centers. The Memory packs are placed into modems that transmit the Memory pack data to the Department of Elections' computer room in City Hall.

The Deputies from the Sheriff's Department will assist the Department of Elections with the retrieval of the PCM-CIA cards at the polling places on Election Night. After the polls close the Deputy Sheriffs travel prearranged routes and retrieve the PCM-CIA cards from the polling places. The Deputy Sheriffs will remove the PCM-CIA cards from the Optech Eagle and places it into a special plastic container and seal it. After completing routes that consist of no more than ten stops, the Deputy Sheriffs will transport the PCM-CIA cards to the Processing Center at Pier 29. At the Processing Center, the cards will be accounted for and transfer to City Hall. The Deputy Sheriffs also pick up paper ballots and other election materials from the poll places and deliver to the Processing Center.

2. Paper Ballots

Once the polls close, Deputies from the Sheriff's Department transport the Optech Eagle voted, unvoted, Provisional, Absentee and, AutoMARK ballots and the Rosters of Voters from the polling places to the Department of Elections' Processing Center at Pier 29. At the Processing Center DOE staff collect the bags containing Optech Eagle Absentee, AutoMARK and Provisional ballots and rosters. These items will be delivered to City Hall the next morning, Wednesday, , November 8 2006, under Deputy Sheriff escort. Since the AutoMARK cards are not processed at the polls, these ballots will be processed at the Central Count location at City Hall.

VIII. Ballot Processing

1. Absentee Optech Eagle Ballots

In San Francisco, an Absentee ballot is placed into the return envelope, which the Absentee voter must sign. The envelope also has a label with the voter's name and address printed on it. Upon receipt at DOE, the signature on the Absentee ballot envelope is compared to the voter's signature on the affidavit of registration on file (Cal. Elec. Code Sec. 3019), and the voter is noted in the computerized database as having voted. Properly submitted ballots are then sorted by precinct.

Bins of sorted Absentee ballots are then opened by a worker who slides the envelope through a slicing machine, extracts the ballot and places them in stacks. Throughout this period, the side of the envelope with the voter's identifying information is kept facing downward so as to protect the voter's privacy. Extracted ballots are then delivered to the Central Count location in City Hall.

If a voter's Absentee ballot is received more than approximately ten (10) days prior to the election, the polling place Roster will reflect this. If the voter has requested an Absentee ballot, this too will be noted in the roster and the voter will have to surrender the Absentee ballot before being allowed to vote, or the voter will have to cast a Provisional ballot.

- The Department of Elections begins processing Absentee ballots beginning October 10, 2006.
 - For this election, Absentee ballots are to be processed at the Central Count location at City Hall using the IV-C machine. After the ballots are verified, the Ballot Distribution division receives the accepted ballots. The ballot envelopes are then sorted by precinct number, opened, and extracted in Room 59 in City Hall. Once the ballots are removed, they are prepared for counting in the DOE Computer Room; header cards are placed between each precinct and log sheets are completed for each box of voted ballots. When ballots are moved from Room 59 to the Computer Room, a transport log is used to ensure the chain of custody. During ballot counting, any ballot that cannot be processed by the IV-C machine is set aside for manual review and remake if required. The IV-C machines also separate write-in ballots which will require manual review and tally.

During the canvass process, any auxiliary bin ballots are also reviewed. Once the Department determines during the canvass – or the reconciliation and review of all election materials sent to the polling places – that the auxiliary bin ballots have not been counted by the Optech Eagle on Election Day at the polls, the ballots are transported to the Central Count location at City Hall. They are then processed through the IV-C machine, similar to the way Absentee and Provisional ballots are counted.

- Date to begin processing precinct (Election Day) delivered Absentee and AutoMARK ballots: November 8, 2006.
 - At the polling places, voters will place their voted AutoMARK ballots in to the same box as Absentee voters place their voted absentee ballots. AutoMARK ballots are to be "Remade" and processed at the Central Count location at City Hall using the IV-C machines. The ballots will be sorted by precinct number and processed by the IV-C machine. A transport log is to be completed when ballots are moved from one processing room to another to ensure the chain of custody. During the ballot count, any ballot that cannot be processed by the IV-C is set aside for remake, similar to the way Absentee Optech Eagle and Provisional ballots are processed for remake.

2. Precinct Ballots

- Procedure for processing ballots and precinct Vote-Recording devices at uplink sites (Central Ballot Count locations)

On Election Night there will be "Optech Eagle" Memory packs for "uploading" at seven (7) uplink sites. Results from these Memory packs will be transmitted to City Hall for tabulation and reporting.

The Department of Election's uplink sites are located at:

- Central Police Station
- Richmond Police Station
- City Hall – McAllister Entrance
- Mission Police Station
- Bay View Police Station
- Ingleside Police Station
- Taraval Police Station

Uplink Sites are operational on Election Day from approximately 7:00 – 11 p.m. From 8:15 - 10:00 p.m.: all Memory packs will be delivered to the Uplink Sites for transmission to the DOE Computer Room in City Hall. On completion of the Memory pack via the Smart Pack Reader (SPR) unit, all Memory packs and other equipment will be returned to City Hall.

Election Day Uplink Timeline*:

Time	Task
6:00 PM	Uplink Staff report to City Hall – Room 421
6:00 PM	Collect SPR unit, documentation, leave for site
7:00 PM	Arrive at Uplink Site, setup
7:15 PM	Dial-in SPR unit, all sites on-line
8:15 PM	Memory packs Start to Arrive – Start Processing
10:30 PM	Status Report

** Actual times may vary.*

3. Provisional Ballots

Forty-one different ballot types will be used in San Francisco in this election, owing to the various boundaries and intersections of Congressional districts, state assembly districts, and state senate, BART and Supervisorial districts. As addressed elsewhere in this document, if a voter votes outside of their assigned polling place, any contest(s) for which they are not eligible to vote, based on their registration, will not be counted.

Provisional envelopes contain the ballots of voters whose names did not appear on the roster of the polling place at which they voted.

Provisional ballots require individual adjudication in which a DOE employee compares the signature on the pink envelope to the voter's signature on the affidavit of registration on file. This process is performed by using Data Information Management System (DIMS) to identify the voter and determine whether the voter is registered and which ballot type the voter should have voted according to the voter's current residential address. The DIMS database is programmed to compare whether the ballot type issued and the ballot type the voter is entitled to vote with is the same, in which case the candidates and measures will be counted for the entire ballot. The "Help America Vote Act" (HAVA) and California Election Code Section 14310 (3)(b) states, "If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct." Provisional ballots are challenged and will not be counted for the following reasons:

- Identity of the voter cannot be determined;
- Envelope is not signed;
- Envelope is not sealed;
- No residential address provided;
- Signature does not compare or match to the voter registration on file;
- No ballot is enclosed; and/or
- The signature is printed.

4. Damaged and Remake Ballots

Under certain circumstances, when a ballot is lawfully cast but unreadable by the vote counting equipment, the Department of Elections must "remake" the ballot so it can be read and processed by the equipment. For example, ballots that are torn, bent, folded, dirty, damp or damaged must be remade. The remade ballot must reflect the voter's intent insofar as the voter's intent can be determined from the defective ballot.

California Elections Code Section 15210 requires the Department to remake ballots when the voter used a pencil or pen that cannot be read by the vote counting equipment, or when the voter marked a sample or photocopied ballot rather than an actual ballot. Under certain circumstances, voters are permitted to use sample ballots and photocopied ballots when actual ballots are not readily available.

In general, precinct ballots (ballots cast at the polling place) are not remade. Precinct ballots are usually in good condition. In addition, the optical scan "Optech Eagle" machines used at the polling place usually detect problematic marks on the ballot, and inform the voter of the problem. The voter then has an opportunity to correct the problem before finally casting the ballot. For these reasons, most remakes are Absentee ballots and Provisional ballots (which are cast at the polling place but not inserted in the Optech Eagle machine). However, occasionally, precinct ballots (such as those ballots that are deposited in an Optech Eagle machine auxiliary bin) are also subject to remake. The auxiliary bin is a compartment used to collect ballots when the Optech Eagle machine is temporarily out of order.

The original, unreadable ballot is called the "original." The duplicate ballot is called the "remake."

The remake process, like all aspects of ballot processing, is open to public

Common Situations for Remaking a Ballot

The following is a list of the most common situations in which the Department of Elections remakes ballots:

- A portion of the ballot card is torn off;
- The ballot card is ripped;
- The ballot card is bent, folded, creased or wrinkled;
- The ballot card is damp, dirty or sticky;
- The ballot card has ink smudges, eraser marks or eraser holes;
- The ballot has stray marks that could interfere with the ability of the equipment to count votes cast on the ballot; and/or
- The voter used a pencil or pen that cannot be detected by the vote counting equipment.

The Department of Elections determines when it is necessary to remake a ballot.

What are Examples of Incorrectly-Marked Ballots that are not Remade?

The following are examples of incorrectly marked ballots that are not remade by the Department of Elections (California Elections Codes § 15342 and 15208). These are votes that are not cast according to State law and for that reason the votes are invalid and may not be counted.

- The voter marked the ballot with a sticker or stamp to indicate the name of a write-in candidate;
- The voter wrote in the name of a qualified write-in candidate but failed to connect the head and tail or the arrow pointing to the space for write-in candidates; and/or
- The voter marked or signed the ballot so that the ballot can be identified by others as the voter's ballot.

What is the Process for Remaking Ballots?

All Absentee and Provisional ballots (and any precinct ballot cards that were not inserted in and processed by an Optech Eagle machine at the polling place) are processed using the IV-C machine. AutoMARK cards are processed using the M650 machine at the Central Count location. If the Central Count IV-C machine or M650 machine segregates a ballot for any reason, the ballot must be reviewed by a Remake Team to determine whether a remake is necessary.

Each Remake Team consists of four members – two Screeners, and two Markers. Working together, the two Screeners review each ballot to determine whether a remake is necessary.

A ballot card must be remade if:

- The ballot card is torn;
- The ballot card is ripped;
- The ballot card is bent, folded, creased or wrinkled;
- The ballot card is damp, dirty or sticky;
- The ballot card has ink smudges;
- The ballot card has a stray mark in the "read path";
- The ballot card has eraser marks or eraser holes;
- The voter used a pencil or pen that cannot be detected by the vote counting equipment; and/or
- The voter failed to mark the ballot by connecting the head and tail of the arrow (as directed in the voting instructions) but instead used an incorrect mark, and used the same incorrect mark for every contest.

Examples of incorrect marks are:

- The voter circled the candidate's name;
- The voter circled part or all of the arrow;
- The voter underlined part or all of the arrow;
- The voter made an "X" through the arrow;
- The voter used the space provided for write-in candidates for each contest to write in the name of a candidate whose name is actually printed on the ballot;
- The voter marked the ballot by connecting the head and tail of the arrow next to the name of a single candidate, and in addition used the space provided for write-in candidates for the contest to write in the name of the same candidate and/or
- The voter marked the ballot by connecting the head and tail of the arrow next to the name of a single candidate, and connected the arrow next to the name of another candidate for the same office but then crossed out that mark.

If the Screeners have any questions about whether a ballot must be remade, they should address their questions to the Department of Elections manager supervising the remake process (the "Manager"). If a question cannot be resolved by reviewing this guide, the question must be resolved by the Manager in consultation with the Director of Elections.

The remade ballot must reflect the voter's intent. The two Screeners, again working together, must determine the voter's intent from the original ballot. If the Screeners have any questions about the determination of voter intent, they should address their questions to the Department of Elections Manager supervising the remake process. The question must be resolved by the Manager in consultation with the Director of Elections.

If the two Screeners determine that a remake is necessary and that the voter's intent is clear, the Remake Team should obtain a blank ballot that is the correct ballot type for remaking the ballot.

Working together, the two Markers must duplicate the votes cast on the original ballot on the remake ballot. The remake must reflect the intent of the voter, as determined by the Screeners. The Markers use ballot pens provided by the voting system vendor to ensure that the marks can be read by the vote count equipment.

The Markers must code both the original ballot and the remake with the following information:

- "AV" to indicate that the original was an Absentee ballot;
- "PV" to indicate that the original was a Provisional ballot;
- "AutoMARK" to indicate that the original was an AutoMARK ballot;
- Precinct number;
- Initials of the person marking the remake;
- Date the remake was made; and
- Number of the remake ballot in sequence number.

For example: For an Absentee ballot, precinct number 3254, remade by MM on 11/02, where the remake was the first remake in a sequence starting with the number 001 (and continuing with 002, 003, etc...), both the original and remake would include the following coding:

AV 3254 MM 11/02 001

Finally, the markers must stamp "Original" on the original ballot and "Remake" on the duplicate ballot.

When is the Remake Process Completed?

The remake process continues until all ballots have been examined and, if necessary, remade. The remakes are then counted and tabulated by precinct by the IV-C equipment. All ballots must be processed, counted and tabulated within 28 days of the election.

5. Write-In Votes for both the Optech Eagle and AutoMARK

Throughout the write-in process, the procedures for Precinct Optech Eagle Ballots, Precinct AutoMARK Ballots, Absentee/Mail Ballots, Provisional Ballots and Auxiliary Bin Ballots are similar, but the cards are counted and stored separately.

- a. After confirming that all cards with write-ins have been received (by comparing physical card counts for each precinct with the Optech Eagle, IV-C counts), segregate the non-RCV and RCV ballot cards by precinct and follow the procedures for each type of card.

Non-RCV Ballot Cards with Write-In Votes

- a. Teams of two screeners separate cards with valid write-in votes from those with no valid write-in votes. Any overvotes or write-in votes that are not for certified write-in candidates for that contests (or candidates listed on the ballot) are stamped "VOID" in red ink across the write-in name(s).
- b. After all of the non-RCV ballot cards with write-in votes have been reviewed and separated, cards with no valid write-in votes are set aside for storage and a tally of votes for qualified write-in candidates is begun. This tally will be recorded on the Unofficial Tally Sheet for Write-Ins with the appropriate box checked ("Precinct Optech Eagle Ballots," etc.).
- c. Each recording team will consist of four people: the Caller, the Observer, and two Recorders. In addition, a Monitor will oversee the workflow.
- d. For each card, the Caller will read aloud the precinct number, the card number (if applicable), the contest that contains a valid write-in vote, and the contents of the name field. The Observer, who sits close enough to the caller to be able to read the ballot, will ensure that the Caller is correct. Each Recorder will look for the candidate's name on an Unofficial Tally Sheet for Write-Ins. This sheet lists only qualified write-in candidates (certified write-in candidates plus candidates whose names appear on the ballot) for each contest. Each recorder will write the corresponding precinct number on the tally sheet, in the first available slot next to the candidate's name.
- e. This process will continue until each contest with a valid write-in vote has been recorded.
- f. Continue until all ballot cards with write-in votes have been processed.
- g. Each Recorder will then enter the total number of votes for each qualified write-in candidate for each contest. There will now be two identical, simultaneously generated Unofficial Tally Sheets for Write-Ins, one from each Recorder.
- h. If the two Unofficial Tally Sheets do not match, the ballot cards will be reviewed until the cause for the discrepancy is determined and the discrepancy is resolved.
- i. The Absentee / mail, Provisional, and auxiliary bin ballot cards are processed following the same procedures as the precinct Optech Eagle ballots, with one exception:

In the event of an overvote in which a candidate listed on the ballot is selected and the *same* candidate is also indicated as a write-in vote, this should be accepted as a valid write-in vote for that candidate, rather than treated as an overvote. The reason for this difference in handling is that a voter who has voted via a mailed ballot or voted Provisionally or using the auxiliary bin has not been given the opportunity to correct the overvote; the duplicate vote for the same candidate must be interpreted as intent to select that candidate.

This exception does not apply to AutoMARK ballots, as the machine will not allow overvotes. (Note: Although, the machine does not allow overvoting on any contest, an AutoMARK ballot card can still contain an overvote if a voter manually marks the ballot using a ballot marker instead of the AutoMARK.)

- Once all ballot cards with write-in votes have been processed, the results are recorded on the Unofficial Tally Sheets for Write-Ins for Precinct Optech Eagle Ballots, Precinct AutoMARK Ballots, Absentee/Mail Ballots, Provisional Ballots and Auxiliary Bin Ballots will be reviewed and tallied by DOE Management Information for reporting purposes.

RCV Ballot Cards with Write-In Votes

- a. Sort the ballot cards by precinct number.
- b. Segregate cards according to the voters' write-in choices for *all* RCV contests on the ballot card.

Beginning with the first precinct in the first district to be reviewed, a team of two screeners will review each ballot card, checking each contest and each choice with a write-in vote. Keeping the ballots in precinct order, they will create four stacks, grouping ballot cards with write-in choices for:

1. **Only certified write-in candidates (from certified write-in list)**

For one or more contests or choices, the voter has completed the arrow next to the space for write-in candidates and written in the name of a candidate who appears on the certified write-in list for that contest and precinct.

2. **Only candidates whose names appear on the ballot**

For one or more contests or choices, the voter has completed the arrow next to the space for write-in candidates and written in the name of a candidate listed on the ballot for that contest and precinct.

3. **Only invalid candidates or blanks**

For one or more contests or choices, the voter has completed the arrow next to the space for write-in candidates and has written in something other than the name of a candidate who appears on the certified write-in list or on the ballot, or has left the write-in area blank

4. **Any combination of the above**

The voter has made more than one RCV write-in choice, either for the same contest or for different contests. The voter's choices include a combination of valid candidate names (listed on the certified write-in list or on the ballot) and/or invalid candidate names.

Keep in mind that the groupings should be determined based on *all* write-in choices on the entire ballot card (all contests and choices). Overvoted ballot cards should also be categorized according to the above criteria.

- c. A team of two screeners will separate the ballot cards in each of the above categories into two groups: those that require remakes and those that are ready for processing. Remakes are generally required if a voter has written in an invalid candidate or a candidate listed on the ballot. Ballot cards that are ready for processing will be reviewed by another team of two screeners, then collected in a container for transfer to the City Hall computer room, to be processed by the IV-C machine.

1. Only certified write-in candidates (from certified write-in list)

- a) **Write-in is the only vote for that choice (no overvote):**
Ballot card is ready for processing; no remake is necessary (unless another write-in choice requires a remake).
- b) **Write-in is not the only vote for that choice (overvote):**
The voter's intent cannot be determined. The ballot card would have been initially rejected by the Eagle machine at the polling place, allowing the voter the option to spoil and replace the overvoted ballot card. Ballot card is ready for processing; no remake is necessary (unless another write-in choice requires a remake).

2. Only candidates whose names appear on the ballot

- a) **Write-in is the only vote for that choice (no overvote):**
The ballot card must be remade, with the candidate's name selected from the ballot list rather than written in. Other choices without write-in votes and other contests are recreated exactly as on the original ballot. *Refer to Remake Procedure below*
- b) **Write-in is not the only vote for that choice (overvote):**
The voter's intent cannot be determined. The ballot card would have been initially rejected by the Eagle machine at the polling place, allowing the voter the option to spoil and replace the overvoted ballot card. Ballot card is ready for processing; no remake is necessary (unless another write-in choice requires a remake).

3. Only invalid candidates or blanks

- a) **Write-in is the only vote for that choice (no overvote):**
The ballot card must be remade, with the choice that included the write-in skipped, and other choices without write-in votes and other contests recreated exactly as on the original ballot. *Refer to Remake Procedure below.*

b) Write-in is not the only vote for that choice (overvote):

The voter's intent cannot be determined. The ballot card would have been initially rejected by the Eagle machine at the polling place, allowing the voter the option to spoil and replace the overvoted ballot card. Ballot card is ready for processing; no remake is necessary (unless another write-in choice requires a remake).

4. Any combination of the above

A supervisor will review these ballot cards and advise staff of further actions to be taken, using the procedures above as guidelines.

Remade ballots and original ballots that are ready for processing will be boxed and transferred with a Sheriff escort to City Hall to be processed using the IV-C system.

IX. Election Results Reporting

1. Reporting Results on Election Night After the Close of Polls

After the polls close at 8 p.m. on Election Night, election results from the precincts will be released as they become available. Results will be issued in the following formats: a continuous screen display in the North Light Court of City Hall, on SFGTV, Channel 25 and on the Department's website.

2. Updates: Reporting of Results after Election Day

An updated results report will be made available at 4:00 p.m. on Wednesday, November 8, 2006. Because San Francisco typically has a large number of Provisional and Absentee ballots to process after Election Day, the Department does not expect to complete this processing until two weeks or more after Election Day. The Department will make final election results available within 28 days of the election, in accordance with state law.

3. Results of Ranked-Choice Voting Contests

First choice selections in ranked-choice voting offices will be reported with all other election results. After tabulating first choice selections, if no candidate for a particular office for which ranked-choice voting applies obtains the required 50% + 1 of all votes cast, the subsequent second and/or third choice selections will be tabulated using the prescribed algorithm after all valid first choice ballots have been accounted for and tabulated. The Department of Elections may release ballot images and data sets of ballots cast before the final accounting and tabulation of first choice ballots is complete.

4. Final Report and Certification of Election Results

• Canvass Procedures

California State law requires an official canvass, which is an internal audit of the election to ensure the accuracy and validity of the results. This entails numerous manual processes that verify the accuracy of the computer count, including a hand tally of ballots cast in 1% of the precincts. California election law allows 28-days following an election for the election official to

conduct the official canvass and certify the election results. The official Canvass is open to the public. California Elections Code § 15301 requires the official canvass to begin no later than the Thursday following Election Day.

Official canvass tasks include, but are not limited to, the following:

- a) Inspection of all materials and supplies returned by poll workers;
- b) A reconciliation of the number of signatures on the roster with the number of ballots recorded on the ballot statement;
- c) In the event of a discrepancy in the reconciliation required by subdivision (b), the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement;
- d) A reconciliation of the number of ballots counted, spoiled, canceled, or invalidated due to identifying marks, overvotes, or as otherwise provided by statute, with the number of votes recorded, including Absentee and Provisional ballots, by the vote counting system;
- e) Processing and counting any valid Absentee and Provisional ballots not included in the semifinal official canvass;
- f) Counting any valid write-in votes;
- g) Reproducing any damaged ballots, if necessary; and
- h) Reporting final results to the governing board and the Secretary of State, as required.

Voter Outreach and Education

The Department of Elections is obligated to comply with the Federal, state, and local mandates regarding voter outreach and education. The Department has met these obligations in the past and will continue to meet these obligations in the future through the Voter Outreach and Education Program.

The November 7, 2006 Outreach and Education Program will maintain objectives from the November 2005 and June 2006 education plans as well as criteria governed by California's Elections Code and Code of Regulations, the Voting Rights Act, the Help America Vote Act (HAVA), provisions of 42 USC 1973 relating to access for the elderly and disabled, and San Francisco's Equal Access to Services ordinance. The November program will also include specific topics related to new citizen registration and voter identification requirements, ranked-choice voting, federally mandated accessible voting systems, and San Francisco's "Your Right to Vote: A Guide for Ex-Offenders" that was developed and distributed for the first time in 2005.

This program will: identify, register, and educate qualified electors, especially those located in low-voter turnout neighborhoods; provide an accurate understanding of election laws and voting procedures, including ranked-choice voting citywide and with a slight focus in Supervisorial Districts 2, 4, 6, 8, and 10; provide hands-on presentations on the new accessible voting system called the "AutoMARK" and educate voters on the stricter regulations for first-time voters and identification requirements that are particular to HAVA; and increase public awareness and participation in the election process including awareness about ballot contests, absentee voting,

becoming a pollworker, and services for limited English-speaking voters, the elderly and the disabled.

Staffing

For the November 7, 2006 Consolidated General Election, the Voter Outreach and Education Division will be staffed with Outreach Coordinators who speak the following languages:

- Two (2) English;
- Two (2) English/Mandarin/Cantonese;
- One (1) English/Spanish; and
- One (1) English/Russian

Brochures

The Voter Outreach and Education division will continue to distribute multiple brochures such as "Guide to Voting in San Francisco", "Multilingual Voter Services", "Your Right To Vote: A Guide for Ex-Offenders", and San Francisco's "Ranked-Choice Voting Explained." These brochures are extremely helpful in educating voters on topics such as voter registration, absentee and early voting, ranked-choice voting, locating your polling place, working as a poll worker, and multilingual voter services. The Department will also continue to distribute an "Election Flyer" that includes deadlines to register to vote, early voting and absentee voting deadlines, as well as specific ballot contest information about candidates and ballot measures. All brochures are produced in English, Chinese, and Spanish.

The Department employs a Russian outreach coordinator and produces educational materials in Russian. Based upon the results of the census, if the Russian language were a part of the Voting Rights Act, San Francisco would be required to produce all materials in this language as the limited English-speaking Russian population is over 10,000, which is the threshold for the mandate. Additionally, based upon the results of the census, there are more than 6,600 limited English-speaking Vietnamese and Tagalog voters that the Department produces the "Guide to Voting in San Francisco" and the "Ranked-Choice Voting Explained" for voters who speak those languages.

Community Presentations

The Department's Outreach Division began conducting community outreach during the week of August 7, and began providing presentations on August 14. The Department will continue to explore opportunities that exist throughout the City to present voter information to San Francisco voters face-to-face. In addition to continuing relationships the Department has developed in the past for outreach events, including an effort to maintain relationships with new organizations the Department partnered with in June in order to better serve San Francisco's disabled community. Presentations will be conducted at locations such as community centers, schools, places of worship, entertainment and charity events, and organization meetings; presentations will be conducted in English, Cantonese, Mandarin, Spanish, and Russian. To accomplish this goal successfully, the Department has hired bilingual deputy registrars (outreach coordinators) in order to communicate effectively in the voter's spoken language. The Department must also continue to explore opportunities with new community organizations and leaders in San Francisco and collaboration with other City departments who conduct community events as an alternate way to circulate registration and election informational materials to the community. The Department will also continue use of a outreach and educational newsletter sent to

community organizations as an additional tool to communicate outreach activities and important election information to the organizations to assist voters.

The Department will also use other formats to meet and educate voters such attendance at the United States Citizen Immigration Services ceremonies, hands-on voting machine practice sessions with the new accessible AutoMARK voting machine, participation in street fairs and festivals, registration drives, and tabling at commercial outlets.

Additionally, the Department will also continue its association with the San Francisco Sheriff's Office Prisoner Legal Services (PLS) whose staff operates the Inmate Registration and Voting Program. The PLS program is designed to provide voting materials and assistance to individuals imprisoned or awaiting trial that are eligible to register to vote and request an Absentee ballot. The Department provides the necessary information and materials to the PLS liaison who then educates the populace and facilitates the registration and voting of those eligible individuals. The Department also hopes to widen the distribution of the "Your Right To Vote: A Voting Guide for Ex-Offenders" throughout the City and state prison system by continuing to work with the Department of Corrections.

Education and Presentations Specific to Voters With Disabilities

As mentioned above, the Department will continue its use of new accessible voting equipment that meets the guidelines set by the Help America Vote Act (HAVA, 2002). The AutoMARK is a ballot-marking device that will be used at the polling places and during early voting at City Hall. The Outreach Coordinators will conduct community presentations of the new equipment so voters can understand the functionality of the equipment, what assistive devices are compatible that a voter can bring to the polling place, and how the process for using the AutoMARK will differ from voting with the optical scan "Optech Eagle" ballot tabulator. AutoMARK presentations will also include how the new accessible system will present ranked-choice contests.

Additionally, this new group of voters will also be educated on other services our Department can offer such as TTY, large format and Braille materials in addition to regular presentation topics.

Citywide Mailing

The Outreach division will be mailing a postcard beginning during the week of October 2 that educates voters and reminds them of what ranked-choice contests will appear on their ballot. The postcard will focus efforts in each of the Supervisorial Districts rather than citywide, as the Department was not funded to produce a citywide mailer. Additionally, the two citywide contests presently do not have three qualified candidates that would enable voters to make selections using the ranked-choice method. The mailing will provide instructions for marking the ranked-choice ballot and include an image of the ranked-choice ballot. The mailer will further instruct voters on where they can find additional information on ranked-choice voting. This mailer will be in English, Chinese and Spanish and will be sent to voters in conjunction with the mailing of absentee ballots and the commencement of early voting.

Public Service Announcements

The Department produced both a 30-second and 60-second public service announcement for radio and television advertising ranked-choice voting. Due to limited funding, the Department will simply be editing the public service announcement used in November 2005 to reflect the offices elected by ranked-choice voting during the November 2006 election. In addition, the Department is hoping that by providing service announcements in two formats (lengths), this will increase the likelihood of gaining airtime as it will provide the media with a choice of announcements.

Also, the Department will be modifying the public service announcement used in June 2006, that will continue to educate voters on HAVA guidelines including identification requirements, accessible voting, as well as incorporate education about ranked-choice voting in place of information about the modified closed primary. Both public service announcements will be produced in English, Cantonese, Mandarin, and Spanish.

Media

The Department will utilize the media to communicate important voter information, including ranked-choice voting and accessible voting systems, to San Francisco voters and the general public by sending press releases informing the media of important election related events and dates. The Department will also hold a press briefing near the start of Early Voting to allow members of the media to tour the Department.

The Department will also utilize the press that serves those whose primary language is not English. Bilingual Outreach Coordinators will actively solicit interviews and offer tours with Chinese, Spanish, and Russian language television and radio stations. Bilingual coordinators will also hold press briefings to emphasize multilingual voter services along with other important outreach messages to ethnic communities.

The Department will also continue to utilize the print media, including local San Francisco Neighborhood Newspapers in addition to major print outlets, for newspaper advertisements regarding important election dates and the use of new voting equipment and ranked-choice voting. All newspaper advertisements will be produced and distributed to newspaper outlets that serve English-speaking voters as well as those whose primary language is not English.

Website

The Department will continue to develop website information that includes a list of frequently asked questions about the new voting system, an update to the glossary of election terms, information on different multilingual voter services provided by the Department, and a calendar of all outreach events. Voter education materials will also be available for download.

X. Pollworker Training and Recruitment

Pollworker training is conducted each election as mandated by California Elections Code and from guidelines provided by the Secretary of State's Training Task Force. The training for the upcoming November 7, 2006 Consolidated General Election will be focusing on the following topics:

- Proper operation of the new voting system;

- Rights of voters, including language access rights for linguistic minorities, voters with disabilities, and other protected classes as defined in the federal Voting Rights Act;
- Cultural competency, including adequate knowledge of diverse cultures and languages that may be encountered by pollworkers during the course of election day; and the appropriate skills to work with electioneering;
- Knowledge regarding issues confronting voters with disabilities including, but not limited to, access barriers and need for reasonable accommodation.

Approximately 2,500 pollworkers are to be trained in approximately 150 training classes, which are conducted at several locations near City Hall in the month preceding an election; pollworker training begins October 7th and continues through November 5th. A training manual and a multilingual glossary of election terms are created to support training. Different class curricula are developed to support the training of all types of election workers: Inspectors, Clerks, Student Clerks and Bilingual Clerks. Bilingual Clerk classes are taught in Cantonese, Mandarin, Spanish and Russian.

Classes will last from 2-3 1/2 hours, depending on the job assignment. All pollworkers are required to attend a training class prior to working on Election Day.

A training lab will be set up in Room 43B of City Hall, where pollworker recruitment takes place. This lab will enable pollworkers to further their understanding of the polling place set-up, materials and use of the Optech Eagle IV-C and the AutoMARK.

The single greatest pool of pollworkers is the database the division maintains of those who have worked elections before. Those pollworkers are reminded about approaching elections well in advance with the newsletters and "save the date" reminders. A respectful and prompt communication makes the difference between a surplus and shortfall of pollworkers on election day. The Department will continue recruiting Inspectors from the pool of experienced clerks who were highly rated by FEDs after the June 2006 election.

To adequately staff all precincts the Department will recruit at least 1200 high school students for this upcoming election. The Department will work with 60 public and private San Francisco high schools and youth organizations to meet its recruitment target.

XI. Logic and Accuracy Testing

The Department of Elections is required by law to conduct Logic and Accuracy (L&A) testing of all vote tabulating equipment prior to each election. L&A testing is used to verify that the specific ballot information for each precinct is correct and to check the performance of the vote tabulating equipment. L&A testing ensures that all votes are properly recorded and tabulated accurately.

After the Department of Elections staff has completed testing all the Eagle, AutoMARK, and IV-C machines, the results are presented to the L&A Board. The L&A Board, which is composed of registered voters who comes from different fields of work, is responsible for reviewing and pre-approving the Test Plan, and later, for reviewing and approving the overall result of the test. The L&A Board must approve and certify the testing no later than seven (7) days before the election (California Elections Code Section 15000).

Logic and Accuracy testing consists of running a set of marked test ballots (using applicable ballot types) through each voting machine and comparing the vote count with predetermined results to verify the accuracy of the formulated software for a specific election.

Testing for the Eagles, IV-C and AutoMARK machines will begin testing on October 2nd and may continue through October 27th; the Eagles and IV-C will be tested first and the AutoMARK are to follow.

A Logic and Accuracy Testing Board oversees the testing, approves the test plan and certifies the results of the test.

Testing of Vote Tabulators Used in Precinct Polling Places

The "Optech Eagle" and the AutoMARK voting machines are stored at the Cor-O-Van warehouse located at Mission Bay (16th Street at Mississippi Street in San Francisco); the warehouse is a bonded and secure facility. All workers and visitors are required to wear an identification badge. During non-working hours, the warehouse is secured.

When the precinct test ballots arrive from the printer, ballot test decks are prepared and transported to Cor-O-Van to begin Logic and Accuracy testing of San Francisco's precinct voting system. 561 units of each of the Optech Eagle and AutoMARK plus an additional 45 units (to serve as backups) for each type of machine will be tested for use on Election Day.

Prior to testing, the "Optech Eagles" and their attached blue ballot bins are cleaned and assembled. The Memory packs, PCMCIA cards and "Optech Eagle" ID cards are sorted and distributed to each machine to be tested. Test decks are read into each "Optech Eagle" and a tape and ballot image precinct report is printed for each precinct; the report is proofed for accuracy by Department staff. After this verification, the Memory pack is read into an "Uplink SPR" unit for twice-daily transmissions to the Department.

A precinct report is printed based on the transmitted results. The report is proofed for integrity and accuracy by another Departmental review team. After verification of the report, the Memory pack and PCMCIA card are returned to "Optech Eagle" testing personnel, zeroed out and placed in the "Optech Eagle" machine.

Once an "Optech Eagle" has been successfully tested, a serialized seal is attached to the Memory pack cover to ensure that no untimely removal of the pack will occur. The "Optech Eagle" is then securely stored by routing number in preparation for delivery to the precincts; it is now ready for use on Election Day.

Before testing each AutoMARK unit, it must be setup. The memory flash card will be inserted into the machine and the unit switched on to "TEST" mode. The screen will be calibrated and then switched to "ON."

A number of test ballots will be inserted and marked using the machine. The operator will mark the votes for each card according to the test scripts for the AutoMARK. The results from the AutoMARK ballots will be evaluated for accuracy by another Departmental team.

The AutoMARK machine will be tested also for other functionality like audio, video and connectivity assistive devices for some of the ballot cards being marked to make sure that they are working correctly. Language translations will be reviewed and finalized outside of L&A by another group before the testing. This will be done for each ballot type.

Testing of Vote Tabulators to be Used for Absentee Ballots

For the November 7, 2006, there are 19 mail-in precincts. Ballots for these precincts, as well as all Absentee ballots, will be tabulated using the Optech IV-C Central Count machine. The IV-C machine will be stationed in the Computer Room of the Department of Elections. At least one precinct for each ballot type and all mail-in precincts will be tested on each of the IV-C machine. The testing of the IV-C machine is conducted similarly to the "Optech Eagle" testing.

After testing all the vote tabulating machines, the results are presented to the Logic and Accuracy Board (L&A) for approval and certification. The L&A Board must certify testing results no later than seven (7) days before an election.

Note: The scheduled dates for the testing will be made public at least three (3) days prior to the start.

Cor-O-Van – Delivery and Retrieval of Voting Equipment

The Cor-O-Van Office is located at 901 16th Street at the corner of Mississippi Street; the warehouse entrance is located at 1200 17th Street.

Prior to Election Day, the Optech Eagles, blue bins, AutoMARK, red supply boxes and additional supplies are delivered to the 561 polling places throughout San Francisco. Each of these items is bar coded and labeled with their precinct number. Election System and Software (ES&S) staff then pull the Optech Eagles and place them on rolling racks, by route. The Optech Eagles are then double checked by DOE staff. Cor-O-Van employees scan each Optech Eagle prior loading on the proper delivery van. The DOE and vendor staff together double check the Optech Eagles, using a route sheet, as they load the van for delivery. At each stop the Optech Eagles and AutoMARKs are delivered and set up. DOE and ES&S staff cross check the Optech Eagle, precinct number and address of the facility against the route sheet. After confirming the information is correct, they initial each other's route sheets for accountability and tag each AutoMARK, blue bin and supply box with bar-coded precinct labels for that site.

The day after the Election, Department of Elections, in conjunction with ES&S and Cor-O-Van, begins retrieving the voting equipment, the red supply boxes, AutoMARKs and Optech Eagles with blue bins, and continues to do so through the following Sunday. Staff search each polling place for any election related materials that may have been overlooked on Election Night. Staff are instructed not to look at the contents of the red supply boxes or the blue Optech Eagle bins until they are at Cor-O-Van warehouse and a Sheriff Deputy is present.

Upon arrival at Cor-O-Van, the boxes are scanned in and stacked in a cordoned off corner of the warehouse. The Optech Eagles with bins and the AutoMARKs are also scanned in and are lined up in the aisles. In addition to the barcode scan, a manual tally is kept to account for each Optech Eagle.

A Deputy Sheriff arrives at the Cor-O-Van Warehouse at approximately 3p.m. on each day of pick-up, and stations him or herself between the red box stack and the blue bins in such a way as to be able to observe the entire operation.

The contents of each red box is then emptied, one at a time, and piece by piece is returned to the box. When any ballots are found they are brought to the Deputy. The number of ballots, the precinct number of the red box they were found in, and whether or not they have been voted, are recorded by a Department staff in conjunction with the Deputy Sheriff on a Department of Election spreadsheet. Ballot stubs and registration cards are also given to the Deputy.

Concurrently, the Optech Eagles and blue bins are, one by one, wheeled up to the Deputy's Station. The auxiliary bin and bins #1 and #2 are then unlocked and searched thoroughly. When ballots are found, the precinct number, the bin they were found in, the amount and whether or not they were voted, is recorded on the same spreadsheet.

When all of the bins and red supply boxes have been searched, the ballots, stubs and registration cards that were found, are then placed in a red transfer box and the lid is sealed. The Deputy and Department staff sign and place seals on the lids of the boxes to ensure the containers are not open during transport. A copy of the spreadsheet is taped to the top of the box.

The box is then brought to the Canvass site (Brooks Hall), by a DOE staff member who is accompanied by a Deputy. It is then handed over to the Deputy in charge of security where the canvass takes place, thus maintaining the chain of custody.

XII. Guidelines

The Election Plan should be presented by the Director of Elections at a period between 80 and 55 days before the election. As the Department of Elections may not have all procedures established or may need flexibility in planning the election, a Supplemental Election Plan is acceptable and should be expected as long as it is submitted at least ten days prior to the election. At that time, the location of the Central Ballot Count (as publication required by CEC§ 12109) can be included in the Supplemental Election Plan.

The Election Plan should be labeled for public review as follows:

Submitted September 14, 2006

☐ Accepted by the Elections Commission of the City & County of San Francisco

☐ Accepted by the Elections Commission of the City & County of San Francisco with the attached amendment(s)

☐ Not accepted by the Elections Commission of the City & County of San Francisco

DRAFT BUDGET FOR ELECTIONS COMMISSION

Item	Annual Expense
Membership to professional organizations	_____
Travel Expense of Commissioners	_____
Postage for packet and other mailings*	\$ 850.00
Audio Tapes for meetings*	\$ 50.00
Bottled Water for meetings *	\$ 50.00
Copying	_____
Paper, folders, office supplies	_____
Regular Meeting Room Rental	There is no charge
Special Events Room Rental	\$ 100.00

* Based on approximately 30 meetings a year.

ITEM # 6

DRAFT BUDGET FOR ELECTIONS COMMISSION

Item

Annual Expense

Membership to professional organizations	
Travel Expense of Commissioners	
Postage for packet and other mailings*	\$ 850.00
Audio Tapes for meetings*	\$ 50.00
Bottled Water for meetings *	\$ 50.00
Copying	
Paper, folders, office supplies	
Regular Meeting Room Rental	There is no charge
Special Events Room Rental	\$ 100.00

* Based on approximately 30 meetings a year.

Item # 10 (c)

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
							Which vendor/s do you want to use?	Price per item or vendor		Which Election? (Nov 2007, June 2008)	Estimate or Quote	Justification	Vendor Contact Name	Vendor Contact Phone
1														
2														
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Agenda item from Commissioners Michael Mendelson and Arnold Townsend

Discussion and possible action to approve a commission general policy statement regarding transparency in all San Francisco Elections Department activities involving voting systems technologies as well as providing voting systems security.

Pursuant to Section 13.105.5, San Francisco Charter which authorizes the Elections Commission to establish general policies for the Elections Department, the Elections Commission establishes the following general policy;

First, the Elections Department shall endeavor to ensure maximum transparency in all Department activities providing the citizenry maximum disclosure of all Department activities involving the election process;

Second, the Election Department shall endeavor to create open source technology, publicly disclosed, to enable the citizenry to understand the methodology involved in the election process consistent with insuring secret ballot protection and voting system security;

Third, the Commission strongly commends the Elections Department's Task Force created on 19 January 07 which established specific goals and a methodology to implement both transparency in voting technology and voting system security;

Fourth, such task force is the means to implement the Commission's general policy of transparency in voting technology as well as voting system security effectuating Section 13.105.5, San Francisco Charter's requirement of free, fair, and functional elections.

Item[#] 10 (n)

City and County of San Francisco
Elections Commission
Approved: February 20, 2007
Minutes of the Meeting at City Hall Room 421
February 7, 2007

DOCUMENTS DEPT.

SEP 27 2007

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1. **CALL TO ORDER.** President Jennifer Meek called the meeting to order at 7:02 pm.
2. **ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Arnold Townsend (arrived at 7:07pm), Victor Hwang (arrived at 7:06 pm), Michael Mendelson, Tajel Shah (arrived at 7:04 pm), Richard P. Matthews, Jennifer Meek, Deputy City Attorney Jon Givner, and Director of Elections John Arntz.
3. **Director's Report.** Director Arntz reported that staff was working on the Budget for 2007-C the Commission and submission to the Mayor's Office. The Ballot Distribution Division has completed the Retirement Board Election which involved 54,000 cast ballots. The Campaign Services Division has received 10,000 Campaign expenditure reports (required by the Fair Political Practices Commission). For the first time, the DoE will scan this information and have it available on a monitor at the front counter instead of referring visitors to the paper files. The Outreach Division has been attending Immigration and Naturalization Service ceremonies, working on the compliance plan for equal access ordinance (which is due annually), and preparing for the Bay Area Outreach Committee meeting that will take place next month. Deputy Director Linda Tulett is the chairperson for this group of counties that discusses ideas and shares best practices regarding providing outreach to voters. The Poll Locating/ADA Division is working on the website to make it fully accessible, and staff will be visiting sites and reviewing issues that arose from the last election regarding polling locations. This division is putting together Phase Five of the accessibility plan focusing not only on the thresholds of polling sites, but the sidewalk and path of travel outside the sites, for steep slopes, sidewalk cracks, etc. The Pollworker Division has met with the Chinese for Affirmative Action Organization regarding that group's report regarding the last election concerning signage and voting materials in non-English. The Division is also reviewing its training manual. The Technology Division is putting together the canvassing data base, and is centralizing all applications which previously had to be accessed with a "local client." This will enable access by way of the internet for DoE staff. Additionally, the Division is working on Phase Two of the Cal Voter data base to shorten the time information is forwarded from the counties to the Secretary of State, which does comparisons, and back to the counties to update the voter file. Phase Two is to make the updates happen in "real time." The Voter Services Division is primarily working to purge information from the data base, by sending out confirmation postcards. The Division also sends out postcards when an absentee voter does not vote in consecutive elections, asking whether they wish to continue voting absentee; if no response received, they are removed from the permanent Absentee Voter list. This is done for local and state elections. The Division is also reviewing signatures on a petition regarding Community Colleges Funding.

Director Arntz gave an update regarding the New Voting System Contract. He reported that the Board of Supervisor's Budget Analyst is preparing that report on the contract which should be available on line, and on February 14 there will be a hearing at the Budget and Finance Committee. The Director said that potentially the Committee will recommend the contract to the Board and then the Board will approve a resolution on the contract. If this happens, the DoE and Sequoia can move forward on the contract.

Regarding a backup plan for the New Voting System, the Director said he has contacted ES for information but has not received it yet. The latest word is that the information will be received by next week.

Commissioner Matthews referred to the Contract, Appendix D, on page 25, section 3.2.11, tabulation of results for ranked choice (RCV) contests, the sentence says "In any ranked-choice contest, a ballot that is exhausted in the first iteration shall be recorded as an exhausted ballot. He asked if it is exhausted coming into the iteration or as the result of the iteration. He said the only way it could be exhausted coming in is if the ballot is blank. Director Arntz added that it could also have two marks (or choices) in the first column; this would also be an exhausted ballot. Commissioner Matthews asked if the under-voted ballots would still be counted as unvoted and if this is what this portion of the contract is referring. Director Arntz said yes, and added that in this contract, the system is more flexible than in the past ES&S system. It will break down information so that people will understand better how the ballots were marked and there will be true pictures of how the ballots are marked. With the ES&S system this was not the case.

Commissioner Matthews asked the Director about the progress regarding RCV. Director Arntz said that the RCV for the touch-screen and the IV-C (the high speed counter) is almost complete.

Commissioner Gleason asked about Appendix D on page 10 of the contract in which Sequoia says that there is a provisional voting function in touch screen DRE devices, and asked if this is something the City can disallow. Director Arntz said that this would not be a good idea because if a voter has a disability which doesn't allow them to vote on a paper ballot, they would have to vote on the touch screen, even if they needed assistance to do so. The Commissioner said having a provisional ballot go into a tabulation device was problematic. He said he was concerned about the distinction between a provisional ballot and a regular ballot being put into the device. Commissioner Gleason said that he has observed that poll workers often don't know how to handle paper provisional ballots. Director Arntz said that he could look into this, but reminded the Commission that federal law requires accessible equipment in each polling place and this includes provisional voting on a touch screen. The Commissioner asked if the Director could check with other jurisdictions regarding how they are handling this situation, and the Director said he could check.

Commissioner Matthews asked the Director if provisionally voted ballots were fed into the tabulator and electronically held off to the side with the DRE. Director Arntz replied in the affirmative.

Commissioner Shah asked for the status of the Open Source Task Force. Director Arntz said that originally the vendor and the Secretary of State's Office (SoS) was to be involved as with the Open Voting Consortium. He said he is still waiting to hear from the vendor. The Director said that he wants to complete the contract process first, and use the Task Force later to give structure to how to implement open source. There are serious operational issues that election departments must consider when they are making any change in how voting is taking place.

Commissioner Mendelson asked what "DRE" stood for. Director Arntz answered "Direct Recording Equipment".

Commissioner Hwang asked the Director how the Task Force would function in relation to the

Commission, i.e. would there be any relationship between the two entities? Director Arntz said there would not. He said that he wants the Task Force to identify the issues, how to accomplish the goal of open source and determine a timeline. There would be an advisory opinion produced by the Task Force.

Commissioner Meek asked what would be the Director's back up plan should ES&S not respond to his request. Director Arntz replied that the plan would be for the Department to implement hand count.

Commissioner Shah said that she felt there should be some involvement of the Commission regarding the Open Source Task Force because if there are to be recommendations about direction, those recommendations should come before the Commission with as an advocate who can move that agenda. This potential would be lost by excluding the Commission's involvement.

Commissioner Townsend said that because there are so many new members of the Election Commission, that he hoped we would plan a retreat so that the Commissioners would have better sense of their role.

Public Comment. Steven Hill said that at the end of the first round of voting in a ranked choice contest, there should not be any exhausted ballots; Director Arntz nodded in agreement. Mr. Hill went on to point out that the contract language with Sequoia appears to permit this possibility, but that maybe it's "just a clarity issue" with the contract language; again, Director Arntz nodded in agreement. Additionally, Mr. Hill said that he was concerned about the July 15th deadline for Sequoia to submit to the federal ITA (independent testing authority). *Carol Bella* thanked the Director for his idea for an Open Source Task Force and said that she had concerns about the readiness of Sequoia for RCV. *Jennifer Hammond* agreed with the comments of Ms. Bella and said that the City should not go forward with the Sequoia contract until the Open Source Task Force has presented its findings. *Alec Bash* said he was in agreement with forming an Open Source Task Force and he presented a sheet of information on that subject to the Commission and urged the Director to make an effort to insert open source language into the Sequoia contract. *Ann West* said that the F.B.I. was investigating Sequoia Voting Systems in connection with the Venezuelan government. *Jim Soper* said that Sequoia has announced that they will be selling their company, and if the voting equipment is secure, it will not matter who owns the company. *Brett Turner* offered a paper with additional language to the Commission to consider regarding the resolution for the Board of Supervisors.

4. **Special Presentation on the 2007-08 Department of Elections Budget.** Director John Arntz presented a draft budget and organizational chart. He called the Commission's attention to the temporary job positions and said that these were discussed during the Controller's audit last June. Director Arntz explained that there have been many vacancies in a short amount of time in the administration positions on the chart. What is presented today (\$21M) must still be reduced. Compared to past budgets presented to the Elections Commission, this one has more detail including the sub-object codes, and explanations.

Director Arntz introduced Greg Wagner, and explained that the DoE worked very closely with him to bring about the budget draft. He said that Mr. Wagner was not working with the DoE when the Controller's Audit was released last year. The Director acknowledged the work that Greg Wagner has done with the Department, and credited him as being largely responsible for improving the tone in the communications between the Department and the Mayor's Budget Office. Director Arntz said the Mr. Wagner was proactive and wants to be

sure that the Department is supported in having a budget that will allow it to do its work.

Commissioner Shah asked how many positions were on the organizational chart. Director Arntz answered that there were 37. Commissioner Shah observed that 14 of the positions were currently filled by temporaries, and that 2 are vacant temporaries. Director Arntz affirmed this analysis.

Commissioner Matthews asked if the ones marked as “temp” were identified by the Controller, in the previous year, to be eliminated. Director Arntz replied that he didn’t feel that they were identified as positions to be eliminated, but were identified to be either reduced to “seasonal time” or reduced to “temporary as – is”, which are the people the Department considers its “base temp people”, that is people or positions that have been in the Department for the last four and a half years. The Director said that he has been trying to move the positions into “permanent status” and the Controller’s Audit Report identified them as not needing to be permanent.

Greg Wagner advised the Commission that the Mayor’s Office issued targets for every City Department to reduce expenses by 3% this year. But the Elections Department has a much different situation – it is going from a one-election-year to a three-election-year. Therefore, to expect the DoE to cut its budget by three percent would be meaningless. It is hard to give the Commission a “target budget” amount at the present time.

Commissioner Shah asked if there was historical data from a previous three-election-year. Director Arntz said that there is, but it is for a four-election-year. He said that the numbers for staffing are very much the same, however, there have been step increases and cost of living allowances.

Public Comment. *Jane Allen* asked at what warehouse the employee identified as “warehouse supervisor” worked. Director Arntz answered that in the past, the person running the warehouse has been a temporary employee, but he would like to hire a permanent employee and the current warehouse is at pier 29. *Steven Hill* said that regarding RCV, he noticed the budget had a website and video but nothing for mailings or new postings regarding the new equipment. He said that these would be expenses that should be included. Director Arntz said that it is difficult to consider those items until the contract is finalized, and he reminded everyone that the contract does cover materials, supplies and outreach.

5. **Special Guest, Greg Wagner, Fiscal and Policy Analyst, in the Mayor’s Office of Public Policy and Finance, will answer questions from the Commission regarding the 2007-08 Department of Elections Budget.** Mr. Wagner responded to the written questions Commissioner Shah emailed him. He presented an informational packet and gave a brief explanation of each page. The first page was of the budget deficit each year since 2003, when \$347M was cut from the General Fund Budget. Currently, the deficit is expected to be \$64M. The next page explained that the entirety of the shortfall is due to wage and benefit increases for City Employees.

Commissioner Mendelson said the DoE has been traditionally under-funded and that it is incorrect to treat the Elections Department like any other City department. He asked Mr. Wagner if there is any plan to establish the DoE as a “critical department.” Commissioner Mendelson praised Steve Kava and the Mayor for recognizing the outstanding work of Director John Arntz by granting him a merit raise recently. However, Commissioner

Mendelson said, the Department needs special recognition, too, that would prevent it from chronically going back to seek supplementals just because "that is the way the game is played." Mr. Wagner said that the reason he is pointing out the City's budget concerns is that "the DoE is not alone in going through some pretty rough funding issues over the last few years."

Commissioner Townsend said "that it takes a certain amount of money to have a proper election," and without that money, the City cannot have the kind of elections that its citizens can have confidence and security in.

Mr. Wagner said that the DoE has done a fantastic job of running elections that have been conducted without the historical issues.

Commissioner Mendelson said that he agreed with Commissioner Townsend and added that this is the "infrastructure of democracy and that everything rests on successful elections". The DoE needs special handling when it comes to allocating its budget.

Mr. Wagner responded to the written questions of Commissioner Shah.

Question: To what degree does the Controller's report influence/inform your budget recommendations? There is a charter amendment that gives the Controller the responsibility to audit all the City's operations. This is ongoing. The purpose is to see if operations can work more efficiently and effectively. These reports are taken seriously. Mr. Wagner said there are issues with the report which he had discovered through his discussions with the DoE Director and Deputy Director regarding their perspective of the Report. In the upcoming year, the level of work in the DoE will increase.

Question: How do you recommend that the Department approach (achieve greater ease) with supplemental budgets, since it is becoming standard protocol for this department, given the unknowns of election ballot sizes and number of elections in a year (i.e., current debate to move up President Primary in February)? Mr. Wagner said the best way is to avoid it to the extent possible. He said that generally speaking, they work hard to get it right the first time, because you get into a situation that at this point in the year when all the money that the City has to allocate has been allocated, so when we have to do a supplemental, it must come from the emergency reserve. They try not to tap into those funds, however, things happen. He said the most important thing is to have very clear and concise accounting of what is driving the cost changes and to have that information clearly laid out so that everyone can understand what is the source of the problem.

Commissioner Mendelson said that it has been his experience with the City that sometimes when the Department submits an "honest budget" the Department gets penalized, that is, money is cut; but those who are adroit in the game's process take that into account when they submit their budgets. This Department is run honestly.

Commissioner Hwang asked if Community Groups will be used to educate citizens with the equipment for the upcoming election? Money had been provided in the past to do this, and the Commissioner asked if that use of Community Groups will be considered again this year.

Commissioner Townsend said that the City received more than it spent on that program with Community Groups. He said the money spent for outreach was largely responsible for the lack of problems on election day when RCV was first implemented.

Commissioner Gleason said that there is about \$12M allocated in the DoE budget to fund the operation of 561 precincts and the mailing of a 200 – 300 page Voter Information Pamphlet. He said that he has worked in precincts during elections when only 70 people have shown up to vote. Although we keep opening the same number of precincts, fifty percent of ballots are returned as absentee ballots. He said something needs to be done to update the configuration of precincts to the changes in how people are voting.

Commissioner Townsend said he agreed with the Voter Information Pamphlets being too large, however, if only one person walks into a precinct to exercise his/her franchise, it is worth it. He said that he didn't know if it is possible to make democracy cost-effective.

Commissioner Shah said that she hopes, with Mr. Wagner's assistance, the DoE can make some of the temporary staff permanent employees, particularly in the Outreach Division. In a Department this size, she said, she doesn't see how it can function with 16 of its employees (roughly half) working as temps, many as part-time.

Commissioner Mendelson said that in his opinion, the Controller's Audit was not a fair document.

Commissioner Matthews said that when the Report came out, it said that the budget had to be a particular number, and that the DoE was at a particular number and then, miraculously, the Controller's number came "exactly at the mid-point between those two numbers."

Public Comments. *Steven Hill* said that the DoE needs a full-time outreach worker, not one to educate voters about RCV, but to do voter registration. He said that the Elections Commission itself needs funding instead of relying on the Department. Mr. Hill said that originally the Commission, which is an oversight Commission, was separate, but it is difficult to be separate when, whether or not the Commission has office space is dependent upon whether the Department wants to give you office space because it has its own space needs, and whether the Commission's staff person gets full funding is under the Department's budget.

6. OLD BUSINESS

(a) Discussion and possible action to approve an amendment to the Elections Commission Bylaws:

- (iii) to include a policy requiring Commissioners to forward correspondence addressed to a majority of the Commission to the Commission Secretary for inclusion in the public review file.

Commissioner Townsend MOVED and Commissioner Matthews SECONDED this item. Commissioner Matthews asked why the item had been held over and President Meek responded that there had been some minor edits to the policy for clarification. The Roll Call Vote was UNANIMOUS. Motion CARRIED.

7. NEW BUSINESS

(a) Discussion and possible action to approve the Elections Commission minutes

for the meeting of January 17, 2007. Commissioner Matthews MOVED and Commissioner Shah SECONDED this item. The Roll Call Vote was UNANIMOUS. Motion CARRIED.

- (b) **Recommendation from the Budget and Oversight of Public Elections Committee regarding its review of the Elections Plan for the November 7, 2006 Consolidated General Election.** Commissioner Gleason reported that the Committee reviewed and discussed the Plan at its Thursday, February 1, 2007 meeting. The Committee found the Plan to be adequate, found no cause for concern regarding the elements of the Plan, and voted to recommend that the full Commission approve its success.
- (c) **Discussion and possible action to evaluate the implementation of the Election Plan for the November 7, 2006 Consolidated General Election.** Commissioner Gleason MOVED and Commissioner Matthews SECONDED this item. The Roll Call Vote was UNANIMOUS (with Commissioner Townsend having stepped out of the meeting). Motion CARRIED.
- (d) **Recommendation from the Budget and Oversight of Public Elections Committee regarding its review of including appropriations for Elections Commission activities in the Department of Elections' Supplemental Budget request for fiscal year 2006-07.** Commissioner Gleason reported that the Committee reviewed two specific items to be included in the 2006-2007 Supplemental Request: The travel item totaling \$604.50 for re-imbursement for Commission travel for the voting equipment certification last August; and the full-time position for the Secretary of this Commission for the balance of this fiscal year.

Commissioner Mendelson said that he recalled that in November 2006 the Commission was notified that there would be a problem with payment for the Commission Secretary. He asked what has transpired regarding a solution. President Meek said there have been some discussions regarding how to proceed, but no solution as yet.

Commissioner Gleason said that he didn't recall any feedback from the memo that the Commission sent listing all the responsibilities and duties that the Commission Secretary performs. He reminded everyone that this is a Charter Commission and that Controller Harrington pointed out that there would be \$100,000 to set up the Commission at it's onset, including the position of the Commission Secretary. Commissioner Gleason said that, in support of the Commission having its own budget, the fact that the citizens of this City voted for the Charter Amendment, and the expense of the operation of the Commission is the strongest argument for its budget.

Commissioner Shah asked the Director where in the process is the Supplemental Budget request for the Department. Director Arntz replied that he would have the draft completed tomorrow, and that if the Commission votes tonight to put the Commission Secretary's compensation on it, this will be done. It then goes to the Budget Analyst and then to the Budget and Finance Committee. The Commissioner stated that Commissioners could go to the Committee meeting and restate the

Charter Amendment “as a reminder to them”.

Commissioner Matthews reminded the Commissioners that this item was passed unanimously by the BOPEC.

Public Comment. *Steven Hill* suggested that Commissioners should be meeting with Chris Daly, the chair of the Board’s Budget and Finance Committee and tell him that the Commission needs \$100,000 for the Elections Commission. He said it is time for the Commission to have proper funding.

(e) **Recommendation from the Budget and Oversight of Public Elections Committee regarding including appropriations for Commission activities in the Department of Elections’ Proposed Budget for fiscal year 2007-08.**

BOPEC Chairperson Gleason presented a draft proposed budget that was discussed at the last Committee meeting with recent amendments. He explained that the membership to professional organizations has been amended to \$875.00 per year which brings the total to \$3,905.00, including the incidentals from the originally proposed budget.

Commissioner Shah asked if this was the full budget for the Commission.

Commissioner Gleason responded that what was proposed in the draft budget was incidentals without the Commission Secretary budget.

Commissioner Townsend asked that the Commission Budget be separated from the Commission Secretary’s Salary because if he chooses to vote for the salary and not for the Commission’s Budget he would not be able to do so. He said that he was “unalterably opposed to a Commission Budget”, because he said he did not recall the Commission ever having one in the past and there didn’t seem to be a need for one now. Commissioner Townsend said that he would spend his own money if he needed to travel on Commission business.

President Meek said that originally the Commission had a budget of \$50,000.

Commissioner Mendelson said that this was not true.

Commissioner Mendelson said that the Commission does not need its own budget because it hasn’t had one before and there’s no reason to change. He asked that when this item is voted, that the Secretary’s salary be separated from the rest of the Commission’s budget.

Commissioner Mendelson asked the Director what is the procedure if the Commission decided to have its own budget. Director Arntz said that he has the spending and appointing authority over the Department, but he did not know if the Commission needs to get spending authority for its own budget.

Commissioner Shah asked the Director if the items listed in the proposed Commission Budget were ordinarily paid for by the DoE. Director Arntz answered that the Department has been paying for the costs, and that he has never proposed that the responsibility for the costs be changed.

Commissioner Mendelson asked the Director who would be responsible for administrating a Commission Budget. Director Arntz said that if it was part of the

DoE budget, that is that it was a line item in the DoE budget, then the Director would be responsible for administering it.

President Meek said that it was not the intention of the Commission to administer its part of the budget but to allow the Commission and the Director to know how much the Commission would be intending to spend on these items. She added that the Commission has the jurisdiction to make inquiries into any area of the DoE, and that costs might be involved while making those inquiries.

Commissioner Gleason noted that he didn't receive a press release, a contract and other information which were made public by the Department. He said that the Commission needs to have the ability to allow it to obtain information to operate as a body and that there may be expenses involved.

Commissioner Townsend said that "for a Commissioner to do the job that they were appointed to do, we don't need this budget. The membership fees, the travel expenses are outside the scope of what we were appointed to do. You don't need to do that to do your the job." Again, he said that if he were to do anything that was out of the Commission's jurisdiction, he should pay for it out of his own pocket.

Commissioner Matthews said that there is disagreement on the Commission regarding what is the exact scope of Charter Sec. 13.103.5. However, everything so far mentioned regarding the budget is within that scope. He reminded the members that the Commission held a Retreat in July of 2005, in which the Commission received three very informative memos from the Deputy City Attorney Julia Moll that established that the Commission had both the authority and the duty, and in his mind – the responsibility, to do things beyond rubber-stamping.

Commissioner Mendelson asked what the membership expense of \$875 to CACEO (the California Association of Clerks and Elections Officials) was for and what was the organization. Commissioner Matthews explained that it was \$175 for each Commissioner per year. The point of paying the membership was not to attend their meetings, but to have access to their information about updates and analysts of what the state legislature is doing with elections code changes. Only members have access to CACEO's information, and although the Director of Elections is a member, he cannot forward that information to non-members. Commissioner Mendelson asked for more information about the organization.

Commissioner Hwang proposed that the MOTION read that the Commission make a recommendation to the Director to include \$2000.00 for the Commission Budget. He said that if it turns out that the Commission decides that it wants to join CACEO and wants to pay for travel expenses, it can come from the \$2000. The DoE already carries the expenses for the other items in the proposed Commission Budget and can continue to do so. Director Arntz was asked if this could continue and he answered affirmatively.

Public Comment. *Jim Soper* explained that the CACEO represents 50 California counties with registrars of voting, and recommended that anyone interested in joining would benefit from the information it provides. *Steven Hill* said that he has been coming to meetings since the beginning of the Commission and that members may have lost sight of the original goals regarding oversight.

- (f) **Discussion and possible action to approve the inclusion of appropriations for Elections Commission activities in the Department of Elections' Supplemental Budget request for fiscal year 2006-07.** Commissioner Matthews MOVED and Commission Shah SECONDED the item. Commissioner Mendelson MOVED to amend the motion to make two items for approval: The first to approve \$604.50 for the travel expense of a Commissioner to attend the certification testing of the voting equipment in 2006; the second to approve the Commission Secretary's salary to 100% in 2006. Commissioner Townsend SECONDED the separation of the two items. The Roll Call Vote for Commissioner Mendelson's amendment was: Shah-No, Mendelson-Yes, Matthews-No, Hwang-No, Gleason-Yes, Townsend-Yes, Meek-No. MOTION FAILED four to three. The Roll Call Vote to include \$604.50 for the travel expense and to cover the full salary for the Commission Secretary in the 2006-2007 Supplemental Budget was: Shah-Yes, Mendelson-No, Matthews-Yes, Hwang-Yes, Gleason-Yes, Townsend-Yes, Meek-Yes. MOTION CARRIED (six to one).
- (g) **Discussion and possible action to approve the inclusion of appropriations for Elections Commission activities in the Department of Elections' Proposed Budget for fiscal year 2007-08.** Commissioner Hwang said that he MOVED that the specific language read: That the Elections Commission Secretary position be fully funded and in addition that there be \$2000.00 allocated to the Commission for incidental expenses. Commissioner Matthews SECONDED. The Roll Call Vote was: Shah-Yes, Mendelson-No, Matthews-Yes, Hwang-Yes, Gleason-Yes, Townsend-No, Meek-Yes. MOTION CARRIED (five to two).
- (h) **Discussion and possible action to approve a commission general policy statement regarding transparency in all San Francisco Elections Department activities involving voting systems technologies as well as providing voting systems security.** Commissioner Matthews said that if everyone was agreeable, and since this item and the others following it on this agenda were not time critical, he would MOVE to adjourn the meeting due to the late hour.

Commissioner Mendelson said that there were many people in the audience who had something to say on items and that the Commission owes it to them to go forward with the meeting. Commissioner Mendelson MOVED to have a vote to adjourn.

The Roll Call Vote to adjourn the meeting was: Shah-No, Mendelson-No, Matthews-No, Hwang-Yes, Gleason-No, Townsend-No, Meek-No. MOTION to adjourn the meeting FAILED (one to six).

Commissioner Mendelson MOVED and Commissioner Hwang SECONDED discussion of this item. Commissioner Gleason said that although he is in favor of disclosure, he could not agree one hundred percent with the policy, as proposed, because some parts are still "up in the air." He said he agreed with point one, had an amendment for point two, and that points three and four are on hold for him.

Commissioner Mendelson said that he would like to MOVE this item to the committee to take testimony from the public for scheduling at the earliest possible date. Commissioner Townsend SECONDED.

Public Comment. *Alec Bash* said he was pleased that the Commission has calendared this item, and handed out his suggestions for additional language for the proposal. *Jim Soper* said that he is "thrilled to see that San Francisco is considering this," and said that he also had additional language for consideration. *Brett Turner* said that his main concern is the language. *Roger Donaldson* said that he would like to see a resolution tonight because the contract will be before the Board's committee in a week.

The Roll Call Vote to move this item to the Budget and Oversight of Public Elections Committee was UNANIMOUS.

President Meek announced that the next meeting of the BOPEC would be Wednesday, March 7, 2007.

(j) *(This item was taken out of order)* **Discussion and possible action to resume one meeting a month for the full Elections Commission.**

Commissioner Townsend MOVED and Commissioner Mendelson SECONDED discussion. Commissioner Gleason asked if the once a month meeting would occur on the third Wednesday of the month. President Meek concurred. Commissioner Townsend added that it has been the practice of the Commission to resume two meetings a month when there is an election pending and there is more activity.

Public Comment. *Carol Bella* asked if the BOPEC meeting was open to the public. The President replied affirmatively. *Steve Hill* reminded everyone that the current meeting has lasted over two hours and asked if the Commission was sure it could handle all its business during a once a month meeting.

The Roll Call Vote was UNANIMOUS to hold Commission Meetings once a month on the third Wednesday.

(i) **Discussion and possible action regarding the disposition of over-voted ballots.**

Commissioner Gleason, the person who generated this item for the agenda, asked that it be TABLED.

(k) **Discussion and possible action regarding a retreat for the Commission.** This item was TABLED.

ADJOURNMENT was at 9:32 pm.

ELECTIONS COMMISSION
City and County of San Francisco



Jennifer Meek, President
Arnold Townsend, Vice President
Gerard Gleason
Victor Hwang
Richard P. Matthews
Michael Mendelson
Tajel Shah

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

SPECIAL MEETING

Elections Commission Meeting
Tuesday, February 20, 2007 at 6:00 pm
City Hall Room 034

ORDER OF BUSINESS

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **Public comment on any issue within the Elections Commission's general jurisdiction**

5. **OLD BUSINESS**

(a) Discussion and possible action to cancel the regularly scheduled meeting of the Elections Commission for Wednesday, February 21, 2007.

(b) Discussion and possible action regarding a retreat for the Commission.

(c) Discussion and possible action to approve the Department of Elections' Supplemental Budget request for fiscal year 2006-07.

(d) Discussion and possible action to approve the Department of Elections' Proposed Budget for fiscal year 2007-08.

6. **Public comment on any issue within the Elections Commission's general jurisdiction.**

7. **Announcements**

ADJOURNMENT

DOCUMENTS DEPT.

SEP 27 2007

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Disability Access

The Elections Commission meeting will be held in Room 034, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA. The Commission meeting room is wheelchair accessible. The closest accessible BART station is the Civic Center Station at United Nations Plaza and Market Street. Accessible MUNI lines serving this location are: #42 Downtown Loop, and #71 Haight/Noriega and the F Line to Market and Van Ness and the Metro Stations at Van Ness and Market and at Civic Center. For information about MUNI accessible services call (415) 923-6142. There is accessible curbside parking adjacent to City Hall on Grove Street and Van Ness Avenue and in the vicinity of the Veterans Building at 401 Van Ness Avenue adjacent to Davies Hall and the War Memorial Complex.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact The Elections Office at (415) 554- 4375 or our TDD at (415) 554-4386 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals. Individuals with chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-6060.

Know your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7724; FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

Materials contained in the Commission packets for meetings is available for inspection at the Elections Department, City Hall Room 48, in the Commission's Public Binder, no later than 72 hours prior to meetings.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300, fax (415) 581-2317; web site at www.sfgov.org/ethics.

Comment

Funding for 2 Outreach positions approved through amendment of ASO. Positions will start in April 2007.

Request to add back funding of .25 of a commission secretary.

Travel reimbursement for Elections Commission.

Ballot costs

Under budget for building management for the November election (\$18,574)

Under budget for pier 29 warehouse space rental (\$54,000), trailer at pier 29 (\$1,300), and training space rental at Unified School District (\$8,000)

Under budget for copier.

Under budget for newspaper advertising to inform voters about voting locations and for voter outreach. (\$9,951) Also under budget in maintenance of Data Information Management System (\$7,367)

Increased hours for Sheriff security due to warehouse break-in at Pier 29.

Controller's audit of pollworker payroll information.

Object	Items	Amount
001	2 Community Outreach positions	78,344
001	Add back .25 of Commission Secretary	29,406
021	Travel for Commissioner	605
027	Sequoia invoice	868,074
028	Building Management	18,574
030	Rental pier 29	63,300
031	Misc. lease - copier	13,500
035	Other current expenses	18,000
081SH	Sheriff Security - Pier 29	79,699
081CO	Pollworker check audit	11,200
Total:		1,180,702
Salary Savings:		200,000
Supplemental Request:		980,702

5 (c)

BUDGET FORM 3a: Program Expenditure Report
DEPARTMENT NAME: Election
PROGRAM: Election

Object*	Phase B			Change (Proposed - Phase B)	Explanation of Change
	AAO Approved 2006-07	Base 2007-2008	Proposed 2007-2008		
001	1,387,138	1,413,729	1,911,637	497,908	Perm Salaries : Reflects substitution of positions in Administration and MIS.
005	1,895,338	1,895,338	5,832,900	3,937,562	Also add back .25 of two positions in a 3 Election year.
009	10,000	10,000	20,000	10,000	Temp Staff request is based on 3 elections in 07-08.
011	390,000	390,000	788,223	398,223	Premium pay.
012	5,500	5,500	16,500	11,000	Overtime request is based on 3 elections.
013	741,714	749,158	955,819	206,661	Holiday pay request is based on 3 elections.
021	1,000	1,000	4,500	3,500	Fringe benefits includes retirement, social security, health services, dental, unemployment insurance, and other fringe benefits.
022	5,000	5,000	15,400	10,400	Annual workshop and training for managers and staff.
023	250	250	4,643	4,393	Training: Classes for ADA refresher, IT application and new technology.
024	1,500	1,500	2,725	1,225	Employee field expense: Pays for toll, parking meters, and other parking.
026	6,000	6,000	-	(6,000)	Request is based on 3 elections in 07-08.
027	798,674	798,674	7,299,768	6,501,094	Membership fees: CACEO membership for managers, Director, Deputy Director, and 7 Commissioners.
030	233,748	233,748	464,950	231,202	Various fees and licences.
031	64,000	64,000	268,805	204,805	Professional services: Request is based on 3 elections. This category includes fees associated with absentee ballots, absentee mailings, production of ballot cards, storage of ballots, VIP production, translation of VIP, People Connection for election night assistance, sunset scavenger, and other misc services.
					Rent and leases: Rental of space at pier 29, pier 17, Civic Auditorium/Brooks Hall, City College, and outreach locations.
					Rent and leases of equipment: Rental of 3 trucks and 243 vans during election period. Trucks are used to transport ballots and vans are used by Sheriffs to pick up ballots and memory cards. FEDS also use vans to travel between precincts to resolve issues during election day.

5(d)

035	2,648,852	2,648,852	2,019,899	(628,953)	Other current expenses: Request is based on 3 elections and this category includes payment to pollworkers, computer maintenance, printing, postage, express overnight, rental of toilets, forklifts, and election day equipment.
052	1,500	1,500	-	(1,500)	
040	244,671	244,671	554,742	310,071	Materials and supplies request is based on 3 elections. This category includes supplies to set up and operate 561 polling places, supplies for the office, and misc supplies for outreach.
60	29,295	-	108,800	108,800	Equipment purchase: Ballot insert machine, envelope opener, envelope sealing machine, absentee counter.
64	24,709	23,451	23,451	-	Equipment lease purchase: Server replacement and forklift.
081CO	-	-	33,600	33,600	Controller's review and audit of department's polling place timesheets. Request is based on 3 elections. (\$11,200 per election)
081CA	80,000	80,000	191,000	111,000	Work order to General Services Administration for accounting services and accounting approvals (\$125K) IT services (\$12K) and additional engineering and custodial staff (54K).
081CB	22,000	22,000	28,750	6,750	Risk management/insurance.
081CS	117,546	49,386	120,000	70,614	DTIS - MIS support from DTIS.
081ET	84,944	84,944	90,000	5,056	DTIS - Telephone service.
081H3			129,677	129,677	Workers Comp
081M2	8,400	8,400	8,400	-	Mayor's Youth Works.
081PA	4,213	4,213	4,200	(13)	Central Shops. Maintenance and repair of vehicles.
081PE					Department keeps 4 vehicles all year for locating and checking polling addresses, bringing mail to the post office, and attending outreach events. The department leases additional vehicles during election time to transport supplies and to bring mail to the post office.
81PF	13,046	13,046	15,000	1,954	Central shops - fuel for department vehicles.
081PK	9,155	9,155	22,000	12,845	Parking and Traffic work order is a request for 120 DPT Parking Officers to pick up memory packs from 561 polling places.
081PM	31,500	31,500	120,000	88,500	Purchasing - Mailings to new voters; postage for mailing checks to pollworkers and polling place owners; mailings to pollworkers regarding training schedule.
081PM	75,000	75,000	120,000	45,000	
081PR	90,000	90,000	210,000	120,000	Purchasing/Reproduction. Work order request is for printing of all department forms and other election materials.
081SH	81,625	81,625	300,000	218,375	Sheriff department staff's assistance to pick up ballots and supplies from 561 polling places. We also requested for additional security on election weekend.

5(d) 1

081WB	20,000	20,000	53,217	33,217	Building repair: Request is for elevator maintenance at 240 Van Ness and custodial service and engineering service throughout the year. Expenditure Recovery from Retirement Board Election, Health Services Election, and Community Business District and Business Improvement District elections in 07-08. 06-07 recovery is from local measure A, BART, and Community District elections.
086RS	(82,000)	(82,000)	(180,000)	(98,000)	
08799	(442,000)	(442,000)	-	-	
TOTALS	8,602,318	8,537,640	21,558,606	13,020,966	

5(d) 2

City and County of San Francisco

SPECIAL MEETING
Elections Commission

Approved: March 21, 2007

Minutes of the Meeting at City Hall Room 034
February 20, 2007

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1. **CALL TO ORDER.** President Jennifer Meek called the meeting to order at 6:00 pm.
2. **ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Arnold Townsend (arrived at 6: pm), Michael Mendelson, Tajel Shah, Richard P. Matthews, Jennifer Meek, Deputy City Attc Jon Givner, and Director of Elections John Arntz. EXCUSED: Commissioner Victor Hwang.
3. **OLD BUSINESS**

1. **Discussion and possible action to cancel the regularly scheduled meeting of the Elections Commission for Wednesday, February 21, 2007.** Commissioner Mendelson MOVED and Commissioner Matthews SECONDED the cancellation of the February 21, 2007 Elections Commission meeting. The Roll Call Vote was UNANIMOUS to cancel the meeting.
- **(b)Discussion and possible action regarding a retreat for the Commission.** President Meek said that the Retreat would cover roles and responsibilities of the Commission, and an overview of the Department of Elections. She suggested a date in early April, and asked the Commission members to offer topics for Retreat discussion.

Commissioner Mendelson asked Director Arntz if a Retreat in April would conflict with his schedule. The Director said that it would not.

Commissioner Shah said that she hoped the Retreat would cover "substantive issues". President Meek said some topics might be scheduled for public hearings. Commissioner Shah said there might be policy statements regarding open source or transparency issues about the voting equipment, and doing so in a non-structured format with the public at the Retreat might be a good idea. President Meek said that the Commission could use a special public hearing for those topics. Commissioner Shah suggested that DoE staff be notified about the Retreat and that they be asked if there are concerns they would like the Commission to consider. President Meek asked the Commission Secretary to take the responsibility of notifying DoE staff.

Commissioner Mendelson asked that the City Attorney enlighten the Commission regarding that office's opinions regarding contracting, general oversight of the Department by the Commission, day-to-day operations, and significant legal issues regarding actual and implied powers of the Commission. Deputy City Attorney Givner said that in the preliminary discussions about having a Retreat, these topics were suggested. He asked the Commissioners to call or email him any legal

questions they would like him to address at the Retreat.

President Meek asked if the Director he could have Division Managers give a brief description of the duties of their areas of responsibility.

Commissioner Mendelson suggested having the Retreat on two days because he said it was a lot of information.

Commissioner Shah said that she has reviewed the minutes from the 2005 Elections Commission Retreat. She said that the roles and responsibilities of the Commission had been thoroughly covered, but that the question concerning some of the Commission members might now be "interpretation" of these roles. Commissioner Shah said that using scenarios of possible concerns, might be helpful to show how Commissions handle them.

- **(c) Discussion and possible action to approve the Department of Elections' Supplemental Budget request for fiscal year 2006-07.**

Commissioner Mendelson MOVED and Commissioner Shah SECONDED this item for discussion. Commissioner Matthews asked if the Commissions' requests of items to be included in the Supplemental Budget request were added. President Meek said that she had checked and the items were included, and asked the Director how soon he expected to know if the Department had approval. Director Arntz reported that the Supplemental is now in the Controller's Office and will be introduced in the Board. He said that within the next week or two the success of the request should be known.

The Roll Call Vote was: Shah – yes; Mendelson – no; Matthews – yes; Gleason – yes; Townsend – yes; Meek – yes. The MOTION CARRIED (5 to 1).

- **(d) Discussion and possible action to approve the Department of Elections' Proposed Budget for fiscal year 2007-08.** Commissioner Mendelson MOVED and Commissioner Matthews SECONDED this item for discussion.

Commissioner Gleason asked the Director what is the anticipated ballot card count in the budget. Director Arntz replied that at present, the Department is using the four-card count as a place-holder for November.

Commissioner Shah asked the Director which past election year cycle had three elections? Director Arntz answered that it was the 2003-04 year. The Commissioner asked the Director if the current budget was based on the equipment contract that is awaiting approval. Director Arntz replied that it was not – it is based on the present equipment system. He said that if the new contract is approved, the \$4M to pay out the contract would then be included in the budget.

Commissioner Gleason said that he would like to see the budget cover parking for the precinct inspectors during training, because they have to pick up 100-150

pounds of ballots. If there is no funding for this, Commission Gleason would like the funds allocated to the pollworkers pins (\$10,500) go to parking.

The Roll Call Vote was UNANIMOUS.

4. **Announcements.** President Meek advised that the packets for all Elections Commission meetings are attached to the agenda that is posted on the Department's website prior to each meeting. She reminded members that their Form 700s would be due soon, and Sunshine training will be scheduled in the next few weeks.

ADJOURNMENT at 6:20 pm.

Elections Commission

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February 21, 2007 - Cancelled

MEETING CANCELLED

**Elections Commission Meeting
Wednesday, February 21, 2007 at 7:00 pm
City Hall Room 408**

**The next regularly scheduled meeting will be
Wednesday, March 21, 2007**

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**Elections Commission Meeting
Wednesday, March 21, 2007 at 7:00 pm**

City Hall Room 408

ORDER OF BUSINESS

1. CALL TO ORDER

2. ROLL CALL

3. FLAG SALUTE

4. Announcements

5. Public Comment on any issue within the Elections Commission's general jurisdiction.

6. Director's Report

- | | |
|------------------------|--|
| • Ballot Distribution | • Technology Division |
| • Budget/Personnel | • Voter Services |
| • Campaign Services | • Update on securing a voting system for 2007-2008 |
| • Outreach | • Update on Supplemental Budget 2006-2007 approval |
| • Poll Locating/ADA | • Update on 2007-2008 Budget approval |
| • Poll Worker Division | |

7. Commissioners' Reports

- Meetings with public officials
- Meetings with nongovernmental organizations
- Oversight and Observation activities
- Long-range planning for Commission activities and areas of study

8. OLD BUSINESS

- (a) Discussion and possible action to recommend approval of a Commission general policy statement regarding transparency in all San Francisco Elections Department activities involving voting systems technologies as well as providing voting systems security.
 - Budget and Oversight of Public Elections Committee Chairperson, Gerard Gleason.
- (b) Discussion and possible action regarding the disposition of over-voted

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ballots.

9. NEW BUSINESS

(a) Discussion and possible action to approve the Elections

Commission minutes of the February 20, 2007, Special Meeting.

(b) Discussion regarding an amendment to the Elections Commission Bylaws to include a regular meeting date and a new meeting time for the Budget and Oversight of Public Elections Committee.

(c) Discussion and possible action to formulate a method and criteria for evaluating the Department of Elections' compliance with each Election Plan in the future. - Budget and Oversight of Public Elections Committee Chairperson, Gerard Gleason.

(d) Discussion and possible action to send a letter to the Board of Supervisors urging the approval of an election system for 2007-2008.

10. Discussion regarding items for future agendas

11. Public comment on any issue within the Elections Commission's general jurisdiction.

ADJOURNMENT

Complete Commission Packet for March 21, 2007

Disability Access

The Elections Commission meeting will be held in Room 421, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA. The Commission meeting room is wheelchair accessible. The closest accessible BART station is the Civic Center Station at United Nations Plaza and Market Street. Accessible MUNI lines serving this location are: #42 Downtown Loop, and #71 Haight/Noriega and the F Line to Market and Van Ness and the Metro Stations at Van Ness and Market and at Civic Center. For information about MUNI accessible services call (415) 923-6142. There is accessible curb parking adjacent to City Hall on Grove Street and Van Ness Avenue and in the vicinity of the Veterans Building at Van Ness Avenue adjacent to Davies Hall and the War Memorial Complex.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpretation, the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact The Elections Office at (415) 554- 4375 or our TDD at (415) 554-4386 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals. Individuals with chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-6060.

Know your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, committees and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7744 FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

Materials contained in the Commission packets for meetings is available for inspection at the Elections Department Hall Room 48, in the Commission's Public Binder, no later than 72 hours prior to meetings.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300, fax (415) 2317; web site at www.sfgov.org/ethics.

The Budget and Oversight of Public Elections Committee, on March 7, 2007, voted Unanimously to recommend to the full Elections Commission the following policy (Pursuant to Section 13.105.5, San Francisco Charter authorizes the Elections Commission to establish general policies for the Elections Department):

The Elections Department shall endeavor to ensure maximum transparency in all Department activities providing the citizenry maximum disclosure of all Department activities involving the election process, and the administration of elections.

The Elections Department shall endeavor to enable the citizenry to understand the methodology involved in the election process consistent with insuring secret ballot protection and voting system security.

8(a)

Agenda Item 8(b): Over-voted Ballots

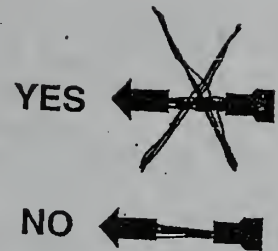
Explanation, Understanding and Discussion of Over-voted Ballots

Consideration:

Example of Ballots marked as such:

PROPOSITION A

Shall it be the policy of the City and County of San Francisco to require that...?



What currently happens to voted ballots that are received as Over-voted?
Such Over-voted ballots received as Absentee (mail) or Provisional ballots
or such Over-voted ballots that are received into precinct tabulation devices.

What does California Elections Code mandate regarding Over-voted ballots
and Voted ballots where "voter intent" can or should be determined?

Is any further action required regarding Over-voted ballot?

8(b)

From the Minutes of the Budget and Oversight of Public Elections Committee meeting of March 7, 2007:

Discussion and possible action to formulate a method and criteria for evaluating the Department of Elections' compliance with each Election Plan in the future. Commissioner Matthews said that this is on the agenda to begin discussion. He said that at each election, most Commissioners do something in the way of oversight, as commanded by the Charter. How this is done has been "self-selected", with some Commission members working as inspectors, FEDs, and other roles. The Commissioner said that some other commissioners believe that the commissioner oversight is haphazard and too unsystematic to provide a valid basis for evaluating whether the DOE complied with the Election Plan. He asked what the Commissioners should be doing in terms of oversight and how Commission can put this together into a valid methodology to determine whether an election is successful or not. Commissioner Matthews said that the discussion is important for the Commission to have, but he wanted to put this item over to the next BOPEC.

Commissioner Gleason agreed that more input by Commissioners is necessary in the Commission's evaluation of the Election Plan. He reminded the Committee that 95% of the written plan does not change from election to election. He suggested that the plan include ballot tracking and passed out a written draft for the tracking process, based on the proposed new voting system. Commissioner Gleason said that he would like to discuss this further at a future BOPEC meeting.

This item was CARRIED over.

9(c)



Election Plan
City and County of San Francisco

Consolidated General Election
November 7, 2006

Introduction

The San Francisco Department of Elections (DOE) must:

"...Conduct all public federal, state, district and municipal elections in the City and County...[This includes] voter registration; the nomination and filing process for candidates to City and County offices; the preparation and distribution of voter information materials; ballots, precinct operations and vote count; the prevention of fraud in such elections; and the recount of ballots in cases of challenge or fraud."

(San Francisco Charter, sec. 13.104)

Organizing and running an election in the City and County of San Francisco requires staffing of 561 polling places. Sites must be located and precinct workers recruited and trained for each precinct. Voter information pamphlets and sample ballots must be prepared and distributed. Absentee ballots must be sent to voters who have requested them or who are registered as permanent Absentee voters. Additionally, in advance of the election, voting machines must be tested, and Deputy Sheriffs must be assigned and coordinated to pick up voted ballots for transport to the holding facility after the polls close. Ballots and equipment must be transported to each site and assembled. Poll workers are to arrive by 6:00 a.m. to set up the polling place, then at 7:00 a.m. start to process voters as they arrive. The pollworkers are to post and update a list of voters registered in the precinct who have voted on an hourly basis. Once the polls close at 8:00 p.m., the poll workers must print two receipt tapes that indicate all votes cast with the Optech Eagle.

At the close of Election Day, inspectors are to remove the Memory pack from the Optech Eagle and place it along with one receipt tape, into a special bag. A Parking and Traffic Control Officer retrieves it and transports it to an uplink facility. Inspectors must post the second receipt outside the polling place. Voted ballots must be removed from the Optech Eagle scanner and Red Box and readied for transport to a holding facility. Pollworkers are to reconcile the number of unused ballots remaining with the number delivered to the precinct and the number used with the Ballot Card Statement (BCS). A copy of the BCS must be posted outside polling place along with the Optech Eagle receipt. Pollworkers must take down the voting booths and ready the equipment and supplies for later pick up.

Provisional and Absentee ballots that have been dropped off at a polling place are delivered to the DOE office in City Hall. Department staff are to process all Provisional and Absentee ballots to determine whether it is to be accepted or challenged. Challenged ballots are neither opened nor counted whereas accepted ballots are opened, extracted and prepared for tabulation. California election law allows 28 days following an election for the election official to conduct the official canvass and certify the election results.

Between elections, DOE must conduct voter file maintenance of the following to ensure the voter rolls are current and as accurate as possible. This maintenance includes:

- Purging of deceased individuals;
- Purging of duplicate registrations;
- Purging of individuals in prison or on parole for the conviction of a felony;
- Purging of voters who have moved out of county; and
- Cross-checking our files with those of the Secretary of State.

I. Governing of Election

The upcoming election shall be governed in accordance with:

- California Election Code;
- San Francisco Municipal Elections Code and applicable Charter Amendments;
- United States Voting Rights Acts (1965)
- United States Help America Vote Act (2002)
- United States Americans With Disabilities Act (1990);
- Previously established administrative procedures which the San Francisco Department of Elections and the Director of Elections deem to be best practices.

All operations of the upcoming election shall be in accordance with one, some or all of the above listed guidelines, except for any new procedures or practices which are not covered by any of the above guidelines, but which could affect the security of ballots or confuse a voter's understanding or perception of the conduct of the election such as the introduction of any new voting equipment or procedures.

II. New Equipment

Beginning January 1, 2006, the Help America Vote Act (HAVA, 2002) requires all polling places throughout the country to provide equipment that allows voters with, but not limited to, sight and mobility impairments to vote independently and privately. To meet this requirement, the DOE has purchased the AutoMARK from Elections Systems and Software (ES&S). This election is the second time San Francisco voters have used the AutoMARK. The device was first used for the November 2005 election. The AutoMARK, often referred to as a "ballot-marking" machine is not a tabulator and does not count votes or record any information from the ballot, but simply assists voters in marking their selection on paper ballots. The Department will tally votes from the Eagle and AutoMARK independently of one another; voted AutoMARK ballots will be secured and brought back to City Hall on election night and will be tallied using a central count machine.

III. New Practices

This is the 3rd Election in San Francisco using Ranked Choice Voting. The previous use of the Ranked Choice Voting was during the November 2, 2004 Consolidated General Election and the November 6, 2005 Consolidated Municipal Election.

9(c)

- AutoMARK Cards Re-made onto Eagle Cards

At the polling places, voters will place their voted AutoMARK ballots in to the same box as Absentee voters place their voted absentee ballots. AutoMARK ballots are to be "Remade" and processed at the Central Count location at City Hall using the IV-C machines. The ballots will be sorted by precinct number and processed by the IV-C machine. A transport log is to be completed when ballots are moved from one processing room to another to ensure the chain of custody. During the ballot count, any ballot that cannot be processed by the IV-C is set aside for remake, similar to the way Absentee Optech Eagle and Provisional ballots are processed for remake.

- Sheriff's Deputies and Parking Control Officers to retrieve Memory Cards

For the November 7, 2006 Consolidated General Election, the Department of Parking and Traffic's Parking Control Officers (PCO's) will assist the Department of Elections with the retrieval of the Memory packs and PCM-CIA cards at the polling places on Election Night. The PCM-CIA cards contain the ranked-choice voting results. After the polls close and two receipt tapes indicating all votes cast in the Optech Eagle are printed, the Inspector (Pollworker) removes the Memory pack from the Optech Eagle and places it into a special anti-static bag, and then seals that bag. The PCO's travel prearranged routes and retrieve the Memory packs from the polling places. While the PCO's are collecting the memory packs at the polls, they will also remove and collect the PCM-CIA cards. The PCM-CIA cards are placed in clear plastic covers. After completing routes that consist of no more than ten stops, the PCOs will transport the Memory packs and PCM-CIA cards to their assigned Uplink site. At the Uplink Sites, the Deputy Sheriffs and Election workers will log the memory packs and PCM-CIA cards received. Data on the memory packs are transmitted to the City Hall from the Uplink Sites. At the end of Election night, the memory packs and PCM-CIA cards are delivered to the Central Counting Room at City Hall by Deputy Sheriffs. In some instances, Deputy Sheriffs also assist with the memory pack and PCM-CIA cards collection.

IV. Election Summary

1. Offices and Local Ordinances and Charter Amendment To Be Voted On

The following state and local elective offices will be in contention:

Federal and State Offices

Governor; Lieutenant Governor; Secretary of State; Controller; Treasurer; Attorney General; Insurance Commissioner; Member, State Board of Equalization, District 1; U.S. Senator; U.S. Representative to Congress; Districts 8 and 12; State Senator, District 8; Member, State Assembly, Districts 12 and 13.

Judicial Offices

Two Associate Justices of the Supreme Court; Presiding Justice, Court Of Appeal, District 1, Division 1; Associate Justice, Court Of Appeal, District 1, Division 1; Associate Justice, Court Of Appeal, District 1, Division 2, two seats; Presiding Justice, Court Of Appeal, District 1, Division 3; Associate Justice, Court Of Appeal District 1, Division 3; Presiding Justice, Court Of Appeal, District 1, Division 4; Associate Justice, Court Of Appeal, District 1, Division 4, two seats; Presiding Justice, Court Of Appeal, District 1, Division 5

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District Offices

BART Director, District 8

School District and College District Offices

Three members of the Board of Education for the San Francisco Unified School District, and three members of the Community College Board

City and County Offices: Ranked-Choice Voting

Assessor-Recorder; Public Defender; Member, Board of Supervisors, Districts 2, 4, 6, 8 and 10.

This is the third election in San Francisco using ranked-choice voting: The first use of ranked-choice voting was during the November 2, 2004 election. The second use was during the November 6, 2005 election.

Bond Measures

A - School Bonds

Charter Amendments

B - Allowing Members of Boards and Commissions to Participate in Meetings by Teleconference due to Pregnancy and Related Conditions; Adoption of Parental Leave Policies

C - Setting Salaries of Certain Local Elected Officials

Local Ordinances

D - Disclosure of Private Information

E - Parking Tax Ordinance

F - Paid Sick Leave Ordinance

G - Limitations on Formula Retail Stores

H - Relocation Assistance for No Fault Tenant Removal

Declarations of Policy

I - Adopting a Policy that the Mayor Appear Monthly at a Board of Supervisors Meeting

J - Adopting a Policy Calling for the Impeachment of President Bush and Vice President Cheney

K - Adopting a Policy Relating to the Housing Needs of Seniors and Disabled Adults

2. Voter Registration: 409,406 as of September 8, 2006

3. Number of precincts: 580

Of the 580 precincts, 19 are mail-in only.

4. Number of pollworkers required: Approximately 2,500

9(c)

For the November 7, 2006 Consolidated General Election the DOE will staff each polling place with four (4) pollworkers: one (1) Inspector and three (3) Clerks. In addition to the approximately 2,500 pollworkers assigned to the precincts, the DOE will recruit 140 stand-by pollworkers, who will be stationed at City Hall and dispatched as needed on Election Day.

It is the DOE's plan to expand our services to voters who need language assistance on Election Day and exceed the 3% standard imposed by California Elections Code, Chapter 4, Article 1, Section 12303 (b)-(c). We will place Chinese- and Spanish-speaking pollworkers at precincts as follows:

- At least one bilingual pollworker in every precinct where 10 or more registered voters have requested election material in Chinese or Spanish;
- At least two bilingual pollworkers in every precinct where 75 or more registered voters have requested election material in Chinese or Spanish; and
- Three to four bilingual pollworkers in every precinct where 120 or more registered voters have requested election material in Chinese or Spanish.

In addition to the aforementioned bilingual pollworkers, the Department further targets precincts that may require language assistance by placing Chinese- and Spanish-speaking pollworkers in every precinct where 25 or more registered voters were born in Chinese- and Spanish-speaking countries.

In summary:

- 340 precincts (61% of 561 polling places) will be staffed with Chinese-speaking pollworkers (450 pollworkers total); and
 - 105 precincts (19% of 561 polling places) will be staffed with Spanish-speaking pollworkers (105 pollworkers total).
5. Voting equipment to be used: At precincts, the Optech Eagle and AutoMARK machines will be used. At City Hall, and the Optech IV-C will be used.
 6. Number of Permanent Absentee Voters: 128,056 as of September 8, 2006.:
 7. Ballots:
 - There will be forty-one ballot types, based on the combinations of Congressional, State Senate and State Assembly, BART and Supervisorial districts that comprise San Francisco and the rotations of candidate names required by California Elections Code;
 - Each voter will receive five ballot cards; and
 - The ballots will be trilingual: English, Chinese and Spanish.
 8. Voter Information Pamphlet and Sample Ballot:
 - English Voter Information Pamphlets will be mailed beginning in early October. Although the legal mailing deadline for this election is 21 days before the election (October 17th), we plan to complete the mailing by October 10th, 28 days prior to the election. (Normally, our target date is 29 days prior to the election, but October 9th is a legal holiday).

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- Chinese and Spanish Voter Information Pamphlets will be mailed beginning on October 19.

V. Critical Dates and Deadlines

- Candidate Filing Deadlines
 - Signatures in Lieu of Filing Fee: July 27, 2006
 - Nomination Period: August 11, 2006
 - Statement of Write-in Candidacy: October 24, 2006
- Write-in Candidate deadlines: October 24, 2006
- Ballot argument deadlines:
 - Proponent/Opponent Arguments: August 18, 2006 by Noon
 - Rebuttal to Proponent/Opponent Arguments: August 22, 2006 by Noon
 - Paid Ballot: August 23, 2006 by Noon
- Public Inspection period of Candidate Qualification Statements: August 12 – August 22, 2006 by Noon
- Public Inspection period of Ballot Designations: August 12 – August 22, 2006 by Noon
- Public Inspection period of Ballot Digests, Financial Analyses and Ballot Questions: August 15 – August 25, 2006 by Noon
- Public Inspection Period of Proponent and Opponent Ballot Arguments for District Bond Measure: August 18 – August 28, 2006 by 2:00 p.m.
- Public Inspection period of Proponent and Opponent Arguments: August 22 – September 4, 2006 by Noon
- Public Inspection period of Rebuttal Arguments: August 24 – September 4, 2006 by Noon
- Public Inspection period of Paid Arguments: August 25 – September 4, 2006 by Noon
- Special Circumstance Extended Public Inspection period for Candidate Qualification Statements and Ballot Designations: August 16 – August 26, 2006 by Noon
- Begin mailing ballots for overseas voters: September 8, 2006
- First day for Early Voting: October 10, 2006 from 8 a.m. to 5 p.m. Early voting on weekends begin October 28th and 29th, 2006 and November 4th and 5th 2006 from 10 a.m. to 4 p.m.
- First day for mailing Absentee ballots: October 10, 2006
- Deadline for Voter Registration: October 23, 2006

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- Last day to mail Voter Information Pamphlet: October 28, 2006 but mailings can begin as early as 40 days prior to November 7, 2006
- Last day to request Absentee ballot be mailed: October 31, 2006
- First day processing Absentee ballots: October 31, 2006
- Election Day: November 7, 2006 from 7 a.m. to 8 p.m.
- First day of processing Provisional ballots: November 8, 2006
- Deadline for Certification of Election: December 5, 2006

VI. Security and Distribution of Ballots Before and On Election Day

1. Absentee Optech Eagle Ballots/Absentee Generic Optech Eagle Ballots/Absentee Generic AutoMARK Ballots

- Location of fulfillment of unvoted Absentee ballots
 - Unvoted Absentee ballots will be secured in Brooks Hall located in the basement of the Bill Graham Civic Auditorium, prior to delivery to the Evans Street post office.
 - Unvoted Absentee generic Optech Eagle and generic AutoMARK ballots will be secured in Room 59 at City Hall.
- The Department will send Optech Eagle ballots for voters requesting a ballot by mail
- Permanent Absentee ballots: Oct 10, 2006
 - Follow-up Absentee ballot requests would immediately follow the mailing of Permanent Absentee ballots.
- Location of secured, returned, voted Absentee ballots
 - All early voted ballots will be secured in City Hall.

2. Precinct Optech Eagle and AutoMARK Ballots/Precinct Generic and Precinct AutoMARK Generic Ballots

Unvoted Optech Eagle, precinct AutoMARK, precinct generic and precinct AutoMARK generic ballots are staged and distributed to polling place inspectors at 240 Van Ness Avenue, one block south of City Hall. Precinct Optech Optech Eagle and AutoMARK ballots will be distributed to the polling place inspectors upon their completion of training classes beginning Wednesday, November 1, 2006 through Saturday, November 4, 2006. If inspectors cannot pick up their ballots after training class, the Department will deliver the cards to their residence.

3. Securing Voted Ballots During Election Day

For this election, there will be no mid-day pick up of voted ballots. The bins attached to the Optech Optech Eagle optical scan machines contain internal barriers which separate ballots that have votes for write-in candidates.

9(c)

VII Transporting and Securing Precinct Ballots and Vote-Recording Devices after the Polls Close on Election Day

1. Vote-Recording Devices

- Optech Eagle Memory Packs (or similar device)
- Locations of Central Ballot Count uplinks

The Optech Eagle contains a memory device or "Memory Pack" which records how ballots were voted and PCM-CIA cards record how RCV ballots were voted.

The Department of Parking and Traffic's Parking Control Officers (PCO's), working under the direction of the Sheriff's office, will assist in the retrieval of the Memory packs at the polling places on Election Night. After the polls close and two receipt tapes indicating all votes cast in the Optech Eagle are printed, the inspector removes the Memory pack from the Optech Eagle and places it into a special anti-static bag, and then seals that bag. The PCO's travel prearranged routes and retrieve the Memory packs from the polling places. After completing routes that consist of no more than ten stops, the PCOs will transport the Memory packs to "uplink sites"; uplink sites are essentially modem centers. The Memory packs are placed into modems that transmit the Memory pack data to the Department of Elections' computer room in City Hall.

The Deputies from the Sheriff's Department will assist the Department of Elections with the retrieval of the PCM-CIA cards at the polling places on Election Night. After the polls close the Deputy Sheriffs travel prearranged routes and retrieve the PCM-CIA cards from the polling places. The Deputy Sheriffs will remove the PCM-CIA cards from the Optech Eagle and places it into a special plastic container and seal it. After completing routes that consist of no more than ten stops, the Deputy Sheriffs will transport the PCM-CIA cards to the Processing Center at Pier 29. At the Processing Center, the cards will be accounted for and transfer to City Hall. The Deputy Sheriffs also pick up paper ballots and other election materials from the poll places and deliver to the Processing Center.

2. Paper Ballots

Once the polls close, Deputies from the Sheriff's Department transport the Optech Eagle voted, unvoted, Provisional, Absentee and, AutoMARK ballots and the Rosters of Voters from the polling places to the Department of Elections' Processing Center at Pier 29. At the Processing Center DOE staff collect the bags containing Optech Eagle Absentee, AutoMARK and Provisional ballots and rosters. These items will be delivered to City Hall the next morning, Wednesday, , November 8 2006, under Deputy Sheriff escort. Since the AutoMARK cards are not processed at the polls, these ballots will be processed at the Central Count location at City Hall.

VIII. Ballot Processing

1. Absentee Optech Eagle Ballots

In San Francisco, an Absentee ballot is placed into the return envelope, which the Absentee voter must sign. The envelope also has a label with the voter's name and address printed on it. Upon receipt at DOE, the signature on the Absentee ballot envelope is compared to the voter's signature on the affidavit of registration on file (Cal. Elec. Code Sec. 3019), and the voter is noted in the computerized database as having voted. Properly submitted ballots are then sorted by precinct.

Bins of sorted Absentee ballots are then opened by a worker who slides the envelope through a slicing machine, extracts the ballot and places them in stacks. Throughout this period, the side of the envelope with the voter's identifying information is kept facing downward so as to protect the voter's privacy. Extracted ballots are then delivered to the Central Count location in City Hall.

If a voter's Absentee ballot is received more than approximately ten (10) days prior to the election, the polling place Roster will reflect this. If the voter has requested an Absentee ballot, this too will be noted in the roster and the voter will have to surrender the Absentee ballot before being allowed to vote, or the voter will have to cast a Provisional ballot.

- The Department of Elections begins processing Absentee ballots beginning October 10, 2006.
 - For this election, Absentee ballots are to be processed at the Central Count location at City Hall using the IV-C machine. After the ballots are verified, the Ballot Distribution division receives the accepted ballots. The ballot envelopes are then sorted by precinct number, opened, and extracted in Room 59 in City Hall. Once the ballots are removed, they are prepared for counting in the DOE Computer Room; header cards are placed between each precinct and log sheets are completed for each box of voted ballots. When ballots are moved from Room 59 to the Computer Room, a transport log is used to ensure the chain of custody. During ballot counting, any ballot that cannot be processed by the IV-C machine is set aside for manual review and remake if required. The IV-C machines also separate write-in ballots which will require manual review and tally.

During the canvass process, any auxiliary bin ballots are also reviewed. Once the Department determines during the canvass – or the reconciliation and review of all election materials sent to the polling places – that the auxiliary bin ballots have not been counted by the Optech Eagle on Election Day at the polls, the ballots are transported to the Central Count location at City Hall. They are then processed through the IV-C machine, similar to the way Absentee and Provisional ballots are counted.

- Date to begin processing precinct (Election Day) delivered Absentee and AutoMARK ballots: November 8, 2006.
 - At the polling places, voters will place their voted AutoMARK ballots in to the same box as Absentee voters place their voted absentee ballots. AutoMARK ballots are to be "Remade" and processed at the Central Count location at City Hall using the IV-C machines. The ballots will be sorted by precinct number and processed by the IV-C machine. A transport log is to be completed when ballots are moved from one processing room to another to ensure the chain of custody. During the ballot count, any ballot that cannot be processed by the IV-C is set aside for remake, similar to the way Absentee Optech Eagle and Provisional ballots are processed for remake.

2. Precinct Ballots

- Procedure for processing ballots and precinct Vote-Recording devices at uplink sites (Central Ballot Count locations)

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On Election Night there will be "Optech Eagle" Memory packs for "uploading" at seven (7) uplink sites. Results from these Memory packs will be transmitted to City Hall for tabulation and reporting.

The Department of Election's uplink sites are located at:

- Central Police Station
- Richmond Police Station
- City Hall – McAllister Entrance
- Mission Police Station
- Bay View Police Station
- Ingleside Police Station
- Taraval Police Station

Uplink Sites are operational on Election Day from approximately 7:00 – 11 p.m. From 8:15 - 10:00 p.m.: all Memory packs will be delivered to the Uplink Sites for transmission to the DOE Computer Room in City Hall. On completion of the Memory pack via the Smart Pack Reader (SPR) unit, all Memory packs and other equipment will be returned to City Hall.

Election Day Uplink Timeline*:

Time	Task
6:00 PM	Uplink Staff report to City Hall – Room 421
6:00 PM	Collect SPR unit, documentation, leave for site
7:00 PM	Arrive at Uplink Site, setup
7:15 PM	Dial-in SPR unit, all sites on-line
8:15 PM	Memory packs Start to Arrive – Start Processing
10:30 PM	Status Report

* Actual times may vary.

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3. Provisional Ballots

Forty-one different ballot types will be used in San Francisco in this election, owing to the various boundaries and intersections of Congressional districts, state assembly districts, and state senate, BART and Supervisorial districts. As addressed elsewhere in this document, if a voter votes outside of their assigned polling place, any contest(s) for which they are not eligible to vote, based on their registration, will not be counted.

Provisional envelopes contain the ballots of voters whose names did not appear on the roster of the polling place at which they voted.

Provisional ballots require individual adjudication in which a DOE employee compares the signature on the pink envelope to the voter's signature on the affidavit of registration on file. This process is performed by using Data Information Management System (DIMS) to identify the voter and determine whether the voter is registered and which ballot type the voter should have voted according to the voter's current residential address. The DIMS database is programmed to compare whether the ballot type issued and the ballot type the voter is entitled to vote with is the same, in which case the candidates and measures will be counted for the entire ballot. The "Help America Vote Act" (HAVA) and California Election Code Section 14310 (3)(b) states, "If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct." Provisional ballots are challenged and will not be counted for the following reasons:

- Identity of the voter cannot be determined;
- Envelope is not signed;
- Envelope is not sealed;
- No residential address provided;
- Signature does not compare or match to the voter registration on file;
- No ballot is enclosed; and/or
- The signature is printed.

4. Damaged and Remake Ballots

Under certain circumstances, when a ballot is lawfully cast but unreadable by the vote counting equipment, the Department of Elections must "remake" the ballot so it can be read and processed by the equipment. For example, ballots that are torn, bent, folded, dirty, damp or damaged must be remade. The remade ballot must reflect the voter's intent insofar as the voter's intent can be determined from the defective ballot.

California Elections Code Section 15210 requires the Department to remake ballots when the voter used a pencil or pen that cannot be read by the vote counting equipment, or when the voter marked a sample or photocopied ballot rather than an actual ballot. Under certain circumstances, voters are permitted to use sample ballots and photocopied ballots when actual ballots are not readily available.

In general, precinct ballots (ballots cast at the polling place) are not remade. Precinct ballots are usually in good condition. In addition, the optical scan "Optech Eagle" machines used at the polling place usually detect problematic marks on the ballot, and inform the voter of the problem. The voter then has an opportunity to correct the problem before finally casting the ballot. For these reasons, most remakes are Absentee ballots and Provisional ballots (which are cast at the polling place but not inserted in the Optech Eagle machine). However, occasionally, precinct ballots (such as those ballots that are deposited in an Optech Eagle machine auxiliary bin) are also subject to remake. The auxiliary bin is a compartment used to collect ballots when the Optech Eagle machine is temporarily out of order.

The original, unreadable ballot is called the "original." The duplicate ballot is called the "remake."

The remake process, like all aspects of ballot processing, is open to public

Common Situations for Remaking a Ballot

The following is a list of the most common situations in which the Department of Elections remakes ballots:

- A portion of the ballot card is torn off;
- The ballot card is ripped;
- The ballot card is bent, folded, creased or wrinkled;
- The ballot card is damp, dirty or sticky;
- The ballot card has ink smudges, eraser marks or eraser holes;
- The ballot has stray marks that could interfere with the ability of the equipment to count votes cast on the ballot; and/or
- The voter used a pencil or pen that cannot be detected by the vote counting equipment.

The Department of Elections determines when it is necessary to remake a ballot.

What are Examples of Incorrectly-Marked Ballots that are not Remade?

The following are examples of incorrectly marked ballots that are not remade by the Department of Elections (California Elections Codes § 15342 and 15208). These are votes that are not cast according to State law and for that reason the votes are invalid and may not be counted.

- The voter marked the ballot with a sticker or stamp to indicate the name of a write-in candidate;
- The voter wrote in the name of a qualified write-in candidate but failed to connect the head and tail or the arrow pointing to the space for write-in candidates; and/or
- The voter marked or signed the ballot so that the ballot can be identified by others as the voter's ballot.

What is the Process for Remaking Ballots?

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All Absentee and Provisional ballots (and any precinct ballot cards that were not inserted in and processed by an Optech Eagle machine at the polling place) are processed using the IV-C machine. AutoMARK cards are processed using the M650 machine at the Central Count location. If the Central Count IV-C machine or M650 machine segregates a ballot for any reason, the ballot must be reviewed by a Remake Team to determine whether a remake is necessary.

Each Remake Team consists of four members – two Screeners, and two Markers. Working together, the two Screeners review each ballot to determine whether a remake is necessary.

A ballot card must be remade if:

- The ballot card is torn;
- The ballot card is ripped;
- The ballot card is bent, folded, creased or wrinkled;
- The ballot card is damp, dirty or sticky;
- The ballot card has ink smudges;
- The ballot card has a stray mark in the "read path";
- The ballot card has eraser marks or eraser holes;
- The voter used a pencil or pen that cannot be detected by the vote counting equipment; and/or
- The voter failed to mark the ballot by connecting the head and tail of the arrow (as directed in the voting instructions) but instead used an incorrect mark, and used the same incorrect mark for every contest.

Examples of incorrect marks are:

- The voter circled the candidate's name;
- The voter circled part or all of the arrow;
- The voter underlined part or all of the arrow;
- The voter made an "X" through the arrow;
- The voter used the space provided for write-in candidates for each contest to write in the name of a candidate whose name is actually printed on the ballot;
- The voter marked the ballot by connecting the head and tail of the arrow next to the name of a single candidate, and in addition used the space provided for write-in candidates for the contest to write in the name of the same candidate and/or
- The voter marked the ballot by connecting the head and tail of the arrow next to the name of a single candidate, and connected the arrow next to the name of another candidate for the same office but then crossed out that mark.

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If the Screeners have any questions about whether a ballot must be remade, they should address their questions to the Department of Elections manager supervising the remake process (the "Manager"). If a question cannot be resolved by reviewing this guide, the question must be resolved by the Manager in consultation with the Director of Elections.

The remake ballot must reflect the voter's intent. The two Screeners, again working together, must determine the voter's intent from the original ballot. If the Screeners have any questions about the determination of voter intent, they should address their questions to the Department of Elections Manager supervising the remake process. The question must be resolved by the Manager in consultation with the Director of Elections.

If the two Screeners determine that a remake is necessary and that the voter's intent is clear, the Remake Team should obtain a blank ballot that is the correct ballot type for remaking the ballot.

Working together, the two Markers must duplicate the votes cast on the original ballot on the remake ballot. The remake must reflect the intent of the voter, as determined by the Screeners. The Markers use ballot pens provided by the voting system vendor to ensure that the marks can be read by the vote count equipment.

The Markers must code both the original ballot and the remake with the following information:

- "AV" to indicate that the original was an Absentee ballot;
- "PV" to indicate that the original was a Provisional ballot;
- "AutoMARK" to indicate that the original was an AutoMARK ballot;
- Precinct number;
- Initials of the person marking the remake;
- Date the remake was made; and
- Number of the remake ballot in sequence number.

For example: For an Absentee ballot, precinct number 3254, remade by MM on 11/02, where the remake was the first remake in a sequence starting with the number 001 (and continuing with 002, 003, etc...), both the original and remake would include the following coding:

AV 3254 MM 11/02 001

Finally, the markers must stamp "Original" on the original ballot and "Remake" on the duplicate ballot.

When is the Remake Process Completed?

The remake process continues until all ballots have been examined and, if necessary, remade. The remakes are then counted and tabulated by precinct by the IV-C equipment. All ballots must be processed, counted and tabulated within 28 days of the election.

5. Write-In Votes for both the Optech Eagle and AutoMARK

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Throughout the write-in process, the procedures for Precinct Optech Eagle Ballots, Precinct AutoMARK Ballots, Absentee/Mail Ballots, Provisional Ballots and Auxiliary Bin Ballots are similar, but the cards are counted and stored separately.

- a. After confirming that all cards with write-ins have been received (by comparing physical card counts for each precinct with the Optech Eagle, IV-C counts), segregate the non-RCV and RCV ballot cards by precinct and follow the procedures for each type of card.

Non-RCV Ballot Cards with Write-In Votes

- a. Teams of two screeners separate cards with valid write-in votes from those with no valid write-in votes. Any overvotes or write-in votes that are not for certified write-in candidates for that contests (or candidates listed on the ballot) are stamped "VOID" in red ink across the write-in name(s).
- b. After all of the non-RCV ballot cards with write-in votes have been reviewed and separated, cards with no valid write-in votes are set aside for storage and a tally of votes for qualified write-in candidates is begun. This tally will be recorded on the Unofficial Tally Sheet for Write-Ins with the appropriate box checked ("Precinct Optech Eagle Ballots," etc.).
- c. Each recording team will consist of four people: the Caller, the Observer, and two Recorders. In addition, a Monitor will oversee the workflow.
- d. For each card, the Caller will read aloud the precinct number, the card number (if applicable), the contest that contains a valid write-in vote, and the contents of the name field. The Observer, who sits close enough to the caller to be able to read the ballot, will ensure that the Caller is correct. Each Recorder will look for the candidate's name on an Unofficial Tally Sheet for Write-Ins. This sheet lists only qualified write-in candidates (certified write-in candidates plus candidates whose names appear on the ballot) for each contest. Each recorder will write the corresponding precinct number on the tally sheet, in the first available slot next to the candidate's name.
- e. This process will continue until each contest with a valid write-in vote has been recorded.
- f. Continue until all ballot cards with write-in votes have been processed.
- g. Each Recorder will then enter the total number of votes for each qualified write-in candidate for each contest. There will now be two identical, simultaneously generated Unofficial Tally Sheets for Write-Ins, one from each Recorder.
- h. If the two Unofficial Tally Sheets do not match, the ballot cards will be reviewed until the cause for the discrepancy is determined and the discrepancy is resolved.
- i. The Absentee / mail, Provisional, and auxiliary bin ballot cards are processed following the same procedures as the precinct Optech Eagle ballots, with one exception:

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In the event of an overvote in which a candidate listed on the ballot is selected and the *same* candidate is also indicated as a write-in vote, this should be accepted as a valid write-in vote for that candidate, rather than treated as an overvote. The reason for this difference in handling is that a voter who has voted via a mailed ballot or voted Provisionally or using the auxiliary bin has not been given the opportunity to correct the overvote; the duplicate vote for the same candidate must be interpreted as intent to select that candidate.

This exception does not apply to AutoMARK ballots, as the machine will not allow overvotes. (Note: Although, the machine does not allow overvoting on any contest, an AutoMARK ballot card can still contain an overvote if a voter manually marks the ballot using a ballot marker instead of the AutoMARK.)

- Once all ballot cards with write-in votes have been processed, the results are recorded on the Unofficial Tally Sheets for Write-Ins for Precinct Optech Eagle Ballots, Precinct AutoMARK Ballots, Absentee/Mail Ballots, Provisional Ballots and Auxiliary Bin Ballots will be reviewed and tallied by DOE Management Information for reporting purposes.

RCV Ballot Cards with Write-In Votes

- a. Sort the ballot cards by precinct number.
- b. Segregate cards according to the voters' write-in choices for *all* RCV contests on the ballot card.

Beginning with the first precinct in the first district to be reviewed, a team of two screeners will review each ballot card, checking each contest and each choice with a write-in vote. Keeping the ballots in precinct order, they will create four stacks, grouping ballot cards with write-in choices for:

1. Only certified write-in candidates (from certified write-in list)

For one or more contests or choices, the voter has completed the arrow next to the space for write-in candidates and written in the name of a candidate who appears on the certified write-in list for that contest and precinct.

2. Only candidates whose names appear on the ballot

For one or more contests or choices, the voter has completed the arrow next to the space for write-in candidates and written in the name of a candidate listed on the ballot for that contest and precinct.

3. Only invalid candidates or blanks

For one or more contests or choices, the voter has completed the arrow next to the space for write-in candidates and has written in something other than the name of a candidate who appears on the certified write-in list or on the ballot, or has left the write-in area blank

4. Any combination of the above

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The voter has made more than one RCV write-in choice, either for the same contest or for different contests. The voter's choices include a combination of valid candidate names (listed on the certified write-in list or on the ballot) and/or invalid candidate names.

Keep in mind that the groupings should be determined based on *all* write-in choices on the entire ballot card (all contests and choices). Overvoted ballot cards should also be categorized according to the above criteria.

- c. A team of two screeners will separate the ballot cards in each of the above categories into two groups: those that require remakes and those that are ready for processing. Remakes are generally required if a voter has written in an invalid candidate or a candidate listed on the ballot. Ballot cards that are ready for processing will be reviewed by another team of two screeners, then collected in a container for transfer to the City Hall computer room, to be processed by the IV-C machine.

1. Only certified write-in candidates (from certified write-in list)

- a) Write-in is the only vote for that choice (no overvote):
Ballot card is ready for processing; no remake is necessary (unless another write-in choice requires a remake).
- b) Write-in is not the only vote for that choice (overvote):
The voter's intent cannot be determined. The ballot card would have been initially rejected by the Eagle machine at the polling place, allowing the voter the option to spoil and replace the overvoted ballot card. Ballot card is ready for processing; no remake is necessary (unless another write-in choice requires a remake).

2. Only candidates whose names appear on the ballot

- a) Write-in is the only vote for that choice (no overvote):
The ballot card must be remade, with the candidate's name selected from the ballot list rather than written in. Other choices without write-in votes and other contests are recreated exactly as on the original ballot. *Refer to Remake Procedure below*
- b) Write-in is not the only vote for that choice (overvote):
The voter's intent cannot be determined. The ballot card would have been initially rejected by the Eagle machine at the polling place, allowing the voter the option to spoil and replace the overvoted ballot card. Ballot card is ready for processing; no remake is necessary (unless another write-in choice requires a remake).

3. Only invalid candidates or blanks

- a) Write-in is the only vote for that choice (no overvote):
The ballot card must be remade, with the choice that included the write-in skipped, and other choices without write-in votes and other contests recreated exactly as on the original ballot. *Refer to Remake Procedure below.*

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b) Write-in is not the only vote for that choice (overvote):

The voter's intent cannot be determined. The ballot card would have been initially rejected by the Eagle machine at the polling place, allowing the voter the option to spoil and replace the overvoted ballot card. Ballot card is ready for processing; no remake is necessary (unless another write-in choice requires a remake).

4. Any combination of the above

A supervisor will review these ballot cards and advise staff of further actions to be taken, using the procedures above as guidelines.

Remade ballots and original ballots that are ready for processing will be boxed and transferred with a Sheriff escort to City Hall to be processed using the IV-C system.

IX. Election Results Reporting

1. Reporting Results on Election Night After the Close of Polls

After the polls close at 8 p.m. on Election Night, election results from the precincts will be released as they become available. Results will be issued in the following formats: a continuous screen display in the North Light Court of City Hall, on SFGTV, Channel 25 and on the Department's website.

2. Updates: Reporting of Results after Election Day

An updated results report will be made available at 4:00 p.m. on Wednesday, November 8, 2006. Because San Francisco typically has a large number of Provisional and Absentee ballots to process after Election Day, the Department does not expect to complete this processing until two weeks or more after Election Day. The Department will make final election results available within 28 days of the election, in accordance with state law.

3. Results of Ranked-Choice Voting Contests

First choice selections in ranked-choice voting offices will be reported with all other election results. After tabulating first choice selections, if no candidate for a particular office for which ranked-choice voting applies obtains the required 50% + 1 of all votes cast, the subsequent second and/or third choice selections will be tabulated using the prescribed algorithm after all valid first choice ballots have been accounted for and tabulated. The Department of Elections may release ballot images and data sets of ballots cast before the final accounting and tabulation of first choice ballots is complete.

4. Final Report and Certification of Election Results

• Canvass Procedures

California State law requires an official canvass, which is an internal audit of the election to ensure the accuracy and validity of the results. This entails numerous manual processes that verify the accuracy of the computer count, including a hand tally of ballots cast in 1% of the precincts. California election law allows 28-days following an election for the election official to

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conduct the official canvass and certify the election results. The official Canvass is open to the public. California Elections Code § 15301 requires the official canvass to begin no later than the Thursday following Election Day.

Official canvass tasks include, but are not limited to, the following:

- a) Inspection of all materials and supplies returned by poll workers;
- b) A reconciliation of the number of signatures on the roster with the number of ballots recorded on the ballot statement;
- c) In the event of a discrepancy in the reconciliation required by subdivision (b), the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement;
- d) A reconciliation of the number of ballots counted, spoiled, canceled, or invalidated due to identifying marks, overvotes, or as otherwise provided by statute, with the number of votes recorded, including Absentee and Provisional ballots, by the vote counting system;
- e) Processing and counting any valid Absentee and Provisional ballots not included in the semifinal official canvass;
- f) Counting any valid write-in votes;
- g) Reproducing any damaged ballots, if necessary; and
- h) Reporting final results to the governing board and the Secretary of State, as required.

Voter Outreach and Education

The Department of Elections is obligated to comply with the Federal, state, and local mandates regarding voter outreach and education. The Department has met these obligations in the past and will continue to meet these obligations in the future through the Voter Outreach and Education Program.

The November 7, 2006 Outreach and Education Program will maintain objectives from the November 2005 and June 2006 education plans as well as criteria governed by California's Elections Code and Code of Regulations, the Voting Rights Act, the Help America Vote Act (HAVA), provisions of 42 USC 1973 relating to access for the elderly and disabled, and San Francisco's Equal Access to Services ordinance. The November program will also include specific topics related to new citizen registration and voter identification requirements, ranked-choice voting, federally mandated accessible voting systems, and San Francisco's "Your Right to Vote: A Guide for Ex-Offenders" that was developed and distributed for the first time in 2005.

This program will: identify, register, and educate qualified electors, especially those located in low-voter turnout neighborhoods; provide an accurate understanding of election laws and voting procedures, including ranked-choice voting citywide and with a slight focus in Supervisorial Districts 2, 4, 6, 8, and 10; provide hands-on presentations on the new accessible voting system called the "AutoMARK" and educate voters on the stricter regulations for first-time voters and identification requirements that are particular to HAVA; and increase public awareness and participation in the election process including awareness about ballot contests, absentee voting,

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becoming a pollworker, and services for limited English-speaking voters, the elderly and the disabled.

Staffing

For the November 7, 2006 Consolidated General Election, the Voter Outreach and Education Division will be staffed with Outreach Coordinators who speak the following languages:

- Two (2) English;
- Two (2) English/Mandarin/Cantonese;
- One (1) English/Spanish; and
- One (1) English/Russian

Brochures

The Voter Outreach and Education division will continue to distribute multiple brochures such as "Guide to Voting in San Francisco", "Multilingual Voter Services", "Your Right To Vote: A Guide for Ex-Offenders", and San Francisco's "Ranked-Choice Voting Explained." These brochures are extremely helpful in educating voters on topics such as voter registration, absentee and early voting, ranked-choice voting, locating your polling place, working as a poll worker, and multilingual voter services. The Department will also continue to distribute an "Election Flyer" that includes deadlines to register to vote, early voting and absentee voting deadlines, as well as specific ballot contest information about candidates and ballot measures. All brochures are produced in English, Chinese, and Spanish.

The Department employs a Russian outreach coordinator and produces educational materials in Russian. Based upon the results of the census, if the Russian language were a part of the Voting Rights Act, San Francisco would be required to produce all materials in this language as the limited English-speaking Russian population is over 10,000, which is the threshold for the mandate. Additionally, based upon the results of the census, there are more than 6,600 limited English-speaking Vietnamese and Tagalog voters that the Department produces the "Guide to Voting in San Francisco" and the "Ranked-Choice Voting Explained" for voters who speak those languages.

Community Presentations

The Department's Outreach Division began conducting community outreach during the week of August 7, and began providing presentations on August 14. The Department will continue to explore opportunities that exist throughout the City to present voter information to San Francisco voters face-to-face. In addition to continuing relationships the Department has developed in the past for outreach events, including an effort to maintain relationships with new organizations the Department partnered with in June in order to better serve San Francisco's disabled community. Presentations will be conducted at locations such as community centers, schools, places of worship, entertainment and charity events, and organization meetings; presentations will be conducted in English, Cantonese, Mandarin, Spanish, and Russian. To accomplish this goal successfully, the Department has hired bilingual deputy registrars (outreach coordinators) in order to communicate effectively in the voter's spoken language. The Department must also continue to explore opportunities with new community organizations and leaders in San Francisco and collaboration with other City departments who conduct community events as an alternate way to circulate registration and election informational materials to the community. The Department will also continue use of a outreach and educational newsletter sent to

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community organizations as an additional tool to communicate outreach activities and important election information to the organizations to assist voters.

The Department will also use other formats to meet and educate voters such attendance at the United States Citizen Immigration Services ceremonies, hands-on voting machine practice sessions with the new accessible AutoMARK voting machine, participation in street fairs and festivals, registration drives, and tabling at commercial outlets.

Additionally, the Department will also continue its association with the San Francisco Sheriff's Office Prisoner Legal Services (PLS) whose staff operates the Inmate Registration and Voting Program. The PLS program is designed to provide voting materials and assistance to individuals imprisoned or awaiting trial that are eligible to register to vote and request an Absentee ballot. The Department provides the necessary information and materials to the PLS liaison who then educates the populace and facilitates the registration and voting of those eligible individuals. The Department also hopes to widen the distribution of the "Your Right To Vote: A Voting Guide for Ex-Offenders" throughout the City and state prison system by continuing to work with the Department of Corrections.

Education and Presentations Specific to Voters With Disabilities

As mentioned above, the Department will continue its use of new accessible voting equipment that meets the guidelines set by the Help America Vote Act (HAVA, 2002). The AutoMARK is a ballot-marking device that will be used at the polling places and during early voting at City Hall. The Outreach Coordinators will conduct community presentations of the new equipment so voters can understand the functionality of the equipment, what assistive devices are compatible that a voter can bring to the polling place, and how the process for using the AutoMARK will differ from voting with the optical scan "Optech Eagle" ballot tabulator. AutoMARK presentations will also include how the new accessible system will present ranked-choice contests.

Additionally, this new group of voters will also be educated on other services our Department can offer such as TTY, large format and Braille materials in addition to regular presentation topics.

Citywide Mailing

The Outreach division will be mailing a postcard beginning during the week of October 2 that educates voters and reminds them of what ranked-choice contests will appear on their ballot. The postcard will focus efforts in each of the Supervisorial Districts rather than citywide, as the Department was not funded to produce a citywide mailer. Additionally, the two citywide contests presently do not have three qualified candidates that would enable voters to make selections using the ranked-choice method. The mailing will provide instructions for marking the ranked-choice ballot and include an image of the ranked-choice ballot. The mailer will further instruct voters on where they can find additional information on ranked-choice voting. This mailer will be in English, Chinese and Spanish and will be sent to voters in conjunction with the mailing of absentee ballots and the commencement of early voting.

Public Service Announcements

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The Department produced both a 30-second and 60-second public service announcement for radio and television advertising ranked-choice voting. Due to limited funding, the Department will simply be editing the public service announcement used in November 2005 to reflect the offices elected by ranked-choice voting during the November 2006 election. In addition, the Department is hoping that by providing service announcements in two formats (lengths), this will increase the likelihood of gaining airtime as it will provide the media with a choice of announcements.

Also, the Department will be modifying the public service announcement used in June 2006, that will continue to educate voters on HAVA guidelines including identification requirements, accessible voting, as well as incorporate education about ranked-choice voting in place of information about the modified closed primary. Both public service announcements will be produced in English, Cantonese, Mandarin, and Spanish.

Media

The Department will utilize the media to communicate important voter information, including ranked-choice voting and accessible voting systems, to San Francisco voters and the general public by sending press releases informing the media of important election related events and dates. The Department will also hold a press briefing near the start of Early Voting to allow members of the media to tour the Department.

The Department will also utilize the press that serves those whose primary language is not English. Bilingual Outreach Coordinators will actively solicit interviews and offer tours with Chinese, Spanish, and Russian language television and radio stations. Bilingual coordinators will also hold press briefings to emphasize multilingual voter services along with other important outreach messages to ethnic communities.

The Department will also continue to utilize the print media, including local San Francisco Neighborhood Newspapers in addition to major print outlets, for newspaper advertisements regarding important election dates and the use of new voting equipment and ranked-choice voting. All newspaper advertisements will be produced and distributed to newspaper outlets that serve English-speaking voters as well as those whose primary language is not English.

Website

The Department will continue to develop website information that includes a list of frequently asked questions about the new voting system, an update to the glossary of election terms, information on different multilingual voter services provided by the Department, and a calendar of all outreach events. Voter education materials will also be available for download.

X. Pollworker Training and Recruitment

Pollworker training is conducted each election as mandated by California Elections Code and from guidelines provided by the Secretary of State's Training Task Force. The training for the upcoming November 7, 2006 Consolidated General Election will be focusing on the following topics:

- Proper operation of the new voting system;

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- Rights of voters, including language access rights for linguistic minorities, voters with disabilities, and other protected classes as defined in the federal Voting Rights Act;
- Cultural competency, including adequate knowledge of diverse cultures and languages that may be encountered by pollworkers during the course of election day; and the appropriate skills to work with electioneering;
- Knowledge regarding issues confronting voters with disabilities including, but not limited to, access barriers and need for reasonable accommodation.

Approximately 2,500 pollworkers are to be trained in approximately 150 training classes, which are conducted at several locations near City Hall in the month preceding an election; pollworker training begins October 7th and continues through November 5th. A training manual and a multilingual glossary of election terms are created to support training. Different class curricula are developed to support the training of all types of election workers: Inspectors, Clerks, Student Clerks and Bilingual Clerks. Bilingual Clerk classes are taught in Cantonese, Mandarin, Spanish and Russian.

Classes will last from 2-3 1/2 hours, depending on the job assignment. All pollworkers are required to attend a training class prior to working on Election Day.

A training lab will be set up in Room 43B of City Hall, where pollworker recruitment takes place. This lab will enable pollworkers to further their understanding of the polling place set-up, materials and use of the Optech Eagle IV-C and the AutoMARK.

The single greatest pool of pollworkers is the database the division maintains of those who have worked elections before. Those pollworkers are reminded about approaching elections well in advance with the newsletters and "save the date" reminders. A respectful and prompt communication makes the difference between a surplus and shortfall of pollworkers on election day. The Department will continue recruiting Inspectors from the pool of experienced clerks who were highly rated by FEDs after the June 2006 election.

To adequately staff all precincts the Department will recruit at least 1200 high school students for this upcoming election. The Department will work with 60 public and private San Francisco high schools and youth organizations to meet its recruitment target.

XI. Logic and Accuracy Testing

The Department of Elections is required by law to conduct Logic and Accuracy (L&A) testing of all vote tabulating equipment prior to each election. L&A testing is used to verify that the specific ballot information for each precinct is correct and to check the performance of the vote tabulating equipment. L&A testing ensures that all votes are properly recorded and tabulated accurately.

After the Department of Elections staff has completed testing all the Eagle, AutoMARK, and IV-C machines, the results are presented to the L&A Board. The L&A Board, which is composed of registered voters who comes from different fields of work, is responsible for reviewing and pre-approving the Test Plan, and later, for reviewing and approving the overall result of the test. The L&A Board must approve and certify the testing no later than seven (7) days before the election (California Elections Code Section 15000).

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Logic and Accuracy testing consists of running a set of marked test ballots (using applicable ballot types) through each voting machine and comparing the vote count with predetermined results to verify the accuracy of the formulated software for a specific election.

Testing for the Eagles, IV-C and AutoMARK machines will begin testing on October 2nd and may continue through October 27th; the Eagles and IV-C will be tested first and the AutoMARK are to follow.

A Logic and Accuracy Testing Board oversees the testing, approves the test plan and certifies the results of the test.

Testing of Vote Tabulators Used in Precinct Polling Places

The "Optech Eagle" and the AutoMARK voting machines are stored at the Cor-O-Van warehouse located at Mission Bay (16th Street at Mississippi Street in San Francisco); the warehouse is a bonded and secure facility. All workers and visitors are required to wear an identification badge. During non-working hours, the warehouse is secured.

When the precinct test ballots arrive from the printer, ballot test decks are prepared and transported to Cor-O-Van to begin Logic and Accuracy testing of San Francisco's precinct voting system. 561 units of each of the Optech Eagle and AutoMARK plus an additional 45 units (to serve as backups) for each type of machine will be tested for use on Election Day.

Prior to testing, the "Optech Eagles" and their attached blue ballot bins are cleaned and assembled. The Memory packs, PCMCIA cards and "Optech Eagle" ID cards are sorted and distributed to each machine to be tested. Test decks are read into each "Optech Eagle" and a tape and ballot image precinct report is printed for each precinct; the report is proofed for accuracy by Department staff. After this verification, the Memory pack is read into an "Uplink SPR" unit for twice-daily transmissions to the Department.

A precinct report is printed based on the transmitted results. The report is proofed for integrity and accuracy by another Departmental review team. After verification of the report, the Memory pack and PCMCIA card are returned to "Optech Eagle" testing personnel, zeroed out and placed in the "Optech Eagle" machine.

Once an "Optech Eagle" has been successfully tested, a serialized seal is attached to the Memory pack cover to ensure that no untimely removal of the pack will occur. The "Optech Eagle" is then securely stored by routing number in preparation for delivery to the precincts; it is now ready for use on Election Day.

Before testing each AutoMARK unit, it must be setup. The memory flash card will be inserted into the machine and the unit switched on to "TEST" mode. The screen will be calibrated and then switched to "ON."

A number of test ballots will be inserted and marked using the machine. The operator will mark the votes for each card according to the test scripts for the AutoMARK. The results from the AutoMARK ballots will be evaluated for accuracy by another Departmental team.

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The AutoMARK machine will be tested also for other functionality like audio, video and connectivity assistive devices for some of the ballot cards being marked to make sure that they are working correctly. Language translations will be reviewed and finalized outside of L&A by another group before the testing. This will be done for each ballot type.

Testing of Vote Tabulators to be Used for Absentee Ballots

For the November 7, 2006, there are 19 mail-in precincts. Ballots for these precincts, as well as all Absentee ballots, will be tabulated using the Optech IV-C Central Count machine. The IV-C machine will be stationed in the Computer Room of the Department of Elections. At least one precinct for each ballot type and all mail-in precincts will be tested on each of the IV-C machine. The testing of the IV-C machine is conducted similarly to the "Optech Eagle" testing.

After testing all the vote tabulating machines, the results are presented to the Logic and Accuracy Board (L&A) for approval and certification. The L&A Board must certify testing results no later than seven (7) days before an election.

Note: The scheduled dates for the testing will be made public at least three (3) days prior to the start.

Cor-O-Van – Delivery and Retrieval of Voting Equipment

The Cor-O-Van Office is located at 901 16th Street at the corner of Mississippi Street; the warehouse entrance is located at 1200 17th Street.

Prior to Election Day, the Optech Eagles, blue bins, AutoMARK, red supply boxes and additional supplies are delivered to the 561 polling places throughout San Francisco. Each of these items is bar coded and labeled with their precinct number. Election System and Software (ES&S) staff then pull the Optech Eagles and place them on rolling racks, by route. The Optech Eagles are then double checked by DOE staff. Cor-O-Van employees scan each Optech Eagle prior loading on the proper delivery van. The DOE and vendor staff together double check the Optech Eagles, using a route sheet, as they load the van for delivery. At each stop the Optech Eagles and AutoMARKs are delivered and set up. DOE and ES&S staff cross check the Optech Eagle, precinct number and address of the facility against the route sheet. After confirming the information is correct, they initial each other's route sheets for accountability and tag each AutoMARK, blue bin and supply box with bar-coded precinct labels for that site.

The day after the Election, Department of Elections, in conjunction with ES&S and Cor-O-Van, begins retrieving the voting equipment, the red supply boxes, AutoMARKs and Optech Eagles with blue bins, and continues to do so through the following Sunday. Staff search each polling place for any election related materials that may have been overlooked on Election Night. Staff are instructed not to look at the contents of the red supply boxes or the blue Optech Eagle bins until they are at Cor-O-Van warehouse and a Sheriff Deputy is present.

Upon arrival at Cor-O-Van, the boxes are scanned in and stacked in a cordoned off corner of the warehouse. The Optech Eagles with bins and the AutoMARKs are also scanned in and are lined up in the aisles. In addition to the barcode scan, a manual tally is kept to account for each Optech Eagle.

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A Deputy Sheriff arrives at the Cor-O-Van Warehouse at approximately 3p.m. on each day of pick-up, and stations him or herself between the red box stack and the blue bins in such a way as to be able to observe the entire operation.

The contents of each red box is then emptied, one at a time, and piece by piece is returned to the box. When any ballots are found they are brought to the Deputy. The number of ballots, the precinct number of the red box they were found in, and whether or not they have been voted, are recorded by a Department staff in conjunction with the Deputy Sheriff on a Department of Election spreadsheet. Ballot stubs and registration cards are also given to the Deputy.

Concurrently, the Optech Eagles and blue bins are, one by one, wheeled up to the Deputy's Station. The auxiliary bin and bins #1 and #2 are then unlocked and searched thoroughly. When ballots are found, the precinct number, the bin they were found in, the amount and whether or not they were voted, is recorded on the same spreadsheet.

When all of the bins and red supply boxes have been searched, the ballots, stubs and registration cards that were found, are then placed in a red transfer box and the lid is sealed. The Deputy and Department staff sign and place seals on the lids of the boxes to ensure the containers are not open during transport. A copy of the spreadsheet is taped to the top of the box.

The box is then brought to the Canvass site (Brooks Hall), by a DOE staff member who is accompanied by a Deputy. It is then handed over to the Deputy in charge of security where the canvass takes place, thus maintaining the chain of custody.

XII. Guidelines

The Election Plan should be presented by the Director of Elections at a period between 80 and 55 days before the election. As the Department of Elections may not have all procedures established or may need flexibility in planning the election, a Supplemental Election Plan is acceptable and should be expected as long as it is submitted at least ten days prior to the election. At that time, the location of the Central Ballot Count (as publication required by CEC§ 12109) can be included in the Supplemental Election Plan.

The Election Plan should be labeled for public review as follows:

Submitted September 14, 2006

☐ Accepted by the Elections Commission of the City & County of San Francisco

☐ Accepted by the Elections Commission of the City & County of San Francisco with the attached amendment(s)

☐ Not accepted by the Elections Commission of the City & County of San Francisco

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City and County of San Francisco
Elections Commission
Approved: April 18, 2007
Minutes of the Meeting at City Hall Room 408
March 21, 2007

DOCUMENTS DEPT.

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CALL TO ORDER. President Jennifer Meek call the meeting to order at 7:02 pm.

2. ROLL CALL. PRESENT. Commissioners Gerard Gleason, Richard P. Matthews, Tajel Shah, Victor Hwang, Winnie Yu, Arnold Townsend (arrived at 7:06 pm), Deputy City Attorney Jon Givner, and Director of Elections John Arntz.

Announcements. President Meek introduced the District Attorney's new appointee to the Commission, Ms. Winnie Yu who replaces Commissioner Michael Mendelson. Ms. Yu greeted the Commission and said she was excited to be a part of the Elections Commission and was looking forward to learning the process and getting to know everyone. President Meek thanked Commissioner Michael Mendelson for his five years of service to the Commission and reminded everyone that Commissioner Mendelson is the last of the original Elections Commission members.

President Meek announced that the membership of the Budget and Oversight of Public Elections Committee (BOPEC) has changed. Commissioner Gerard Gleason is still Chair, Commissioner Richard P. Matthews remains on the Committee, but the third member is now Commissioner Tajel Shah who replaces Commissioner Meek. A Vice-chair will be announced later. The Committee will meet first Wednesdays of each month at 6:00 pm.

President Meek announced that the Commission Secretary's hours have been reduced until July 1, 2007. Ms. Rodriques will be working ten hours a week and will be in the office on Wednesdays only. At that time she will return phone calls and emails.

President Meek announced that Commissioners need to return their completed Form 700s (financial disclosures) and complete their Sunshine Ordinance Training Cerifications by April 2, 2007.

Deputy City Attorney Jon Givner reported that the Elections Commission's Deputy City Attorney, Ann O'Leary gave birth last Friday and both mother and daughter, named Violet, are doing well.

Deputy City Attorney Givner gave a handout to the Commissioners regarding their Sunshine Ordinance Training responsibilities. The Ordinance requires that Commissioners file a form declaring their completion of training every year. The training can be accomplished by watching the first hour of the two hour video provided by the City Attorney's website and taking the first half of the self-study test (the first 19 questions on the website). A separate state law, AB 1234, requires Commissioners to take two hours of ethics and open meeting related training every two years. If a Commissioner took office within the last year, that Commissioner must take the two-hour training within a year of taking office. The two-hour training and the completion of the full self-study test will satisfy both AB1234 and Sunshine training requirements for the new commissioners. Commissioners who were in office on January 2006, and attended or watched the full training that year, will not be required to do

so again until 2008.

Public Comment. *David Pilpel* suggested a resolution of appreciation for the long tenure of Commissioner Mendelson. Mr. Pilpel said he would like to know why the advocates for open source software are not concerned about the use of ES&S's (Elections Systems and Software) equipment for San Francisco elections. *Brent Turner* responded that he wants the language regarding open source software to be included in the extension of the ES&S contract.

Director's Report.

Staff is updating the Department's Operations Manual, updating procedures and preparing the elections calendar for the four upcoming elections in the next 1 ½ years.

Ballot Distribution – staff is meeting with the post office and vendors regarding the ballots, voter guides and other mass mailings. Postal rates are increasing soon and regulations will be changing.

Budget and Personnel – staff is working to resolve classification issues for permanent staff and finding ways to move temporary staff into potentially permanent classifications. The two new Outreach positions were resolved this week and are now advertised. The Director said he wants to praise Roger Sandoval's efforts to make this happen. Interviews for these positions are expected to begin in three to four weeks.

Campaign Services – staff is completing the Candidate Guide for November. Meetings with the candidates will begin in May to help them through the paperwork of the election process.

Outreach – staff is assisting other divisions with graphics for brochures and posters. On Saturday, staff will be attending the Mayor's "March Gladness Fair" at the Ella Hill Hutch Community Center, and will be conducting a mock election at the event in effort to get youth interested in the elections.

Poll Locating/ADFA – staff is working on their mitigation plan to resolve issues where the path of voters to a polling site is more than 3% grade, and where there is insufficient space for the two voting devices now used by the City. New locations need to be secured in many cases for November.

Poll Worker Division – staff recently sent out the Department's newsletter and is readying training materials, and reviewing the pollworker manual. The staff sent out a test for pollworkers and received over a thousand responses. The staff will review the answers and get back in touch with the pollworkers to let them know their test results. The Director commended the division for this innovative approach to enhanced training.

Technology – staff is still working to make the department's website accessible, getting reports prepared and formatted and data bases for the November election.

Voter Services – staff is conducting a 100 percent review of a petition because it failed to meet the threshold of verification in the sample review. There are 25,000 signatures to be checked. The process began March 15, and is not expected to be completed until April 18th.

Update on securing a voting system for 2007-2008 – The Director said that he was in the Board of Supervisors Budget and Finance Committee earlier today and that the Department has reached agreement on a completed contract extension with ES&S. The Board must now approve a resolution because the potential cost of the contract with the extension is over \$10M. The Director added a performance bond requirement to the contract amendment, which caused a substantive change to the extension, this means that the item was continued for one week at the Board. However, the three members of the Committee present appeared to agree with the resolution and it looks like it will be approved at the first hearing in two weeks. The Director said that Supervisor Daly indicated today that negotiations with Sequoia have not ended, but are continuing.

ES&S must submit an application for certification for ranked choice voting by May 1, 2007. Secretary of State Bowen will submit new guidelines on certification shortly.

Update on Supplemental Budget 2006-2007 approval – The Mayor's Office has not moved the budget to the Controller's Office at this time. The DoE (Department of Elections) yesterday received a reimbursement check (for work done on previous elections) from the Secretary of State for over \$1M. There is a chance that the DoE will not have to go forward with its supplemental budget request. What remains after the Department covers its previously non-reimbursed expenses will go into the General Fund.

Update on 2007-2008 Budget approval – There have been no changes in the budget reviewed by the Commission within the last month.

Commissioner Matthews asked if the contract with ES&S is carried through past the November election what would be the implications for February and June of 2008. The Director said that the agreement has a sliding scale of costs to the City depending on the number of elections for which ES&S's equipment is used. Mr. Arntz said that in his mind, "ES&S would run the January and February elections".

Commissioner Townsend said that he wanted to be on record as being disappointed that the City will be using ES&S again. He said that the company has been cavalierly disrespectful to the Elections Commission, by refusing requests to appear at meetings. Commissioner Townsend said that if the upcoming relationship with ES&S does not go well, the City gets what it deserves in working with that company.

Commissioner Hwang asked if there were any provisions in the contract regarding the widespread failure of the AutoMark machines, and are there any liquidated damages provisions. Director Arntz said there were not, this is an extension of an existing contract. Commissioner Hwang asked about the problems with ES&S equipment in the past. Director Arntz responded that in June election, last year, the breakdown rate was around 25% and in November it was up to 35%, that is 35% of the machines required technical assistance on election day.

Commissioner Shah asked if the Commission Secretary's salary shortfall could be covered by the reimbursement funds the Department received this week. Director Arntz said that only the items in the supplemental request could be covered, and he reminded the Commission that the Secretary's salary provision was removed by the Mayor's office; not by the Department.

Commissioner Gleason asked the Director if he had any numbers regarding the breakdowns

of the AutoMark which is brand new equipment. Director Arntz said that AutoMarks were under used, and it is difficult to know how well they operate. Commissioner Gleason said that at his poll site, there was an "extreme amount of difficulty with them". Commissioner Gleason said that the Pollworker Newsletter was a great idea to keep communications with workers between elections, as well as the test, and the Commissioner recommended that the other Commissioners take the test.

Commissioner Hwang asked how the extension of the contract with ES&S affects the HAVA (Help America Vote Act) funds. Director Arntz said that there is potentially very little use of the HAVA funds with the extension because they are earmarked for new systems. There is a June 31, 2007 deadline to use the funds, but the SoS (Secretary of State's Office) is looking into extending the deadline.

Public Comment. *David Pilpel* asked if the reimbursement funds were included in the City's Annual Appropriations Ordinance, and if they weren't, they may need to be appropriated as revenue. He asked will there be a supplemental using that \$1M as the fund source. Director Arntz said that he was not sure how it will done. Mr. Pilpel said that he agreed strongly with Commissioner Townsend regarding disappointment in having to work with ES&S again, after spending so much time on the RFP with Sequoia Systems. *Brent Turner* said that by going with a system with which pollworkers are already familiar, the City is saving \$1M. He said that all systems are the same. *Steven Hill* said that there is no danger of losing the HAVA funds, that the new funds appropriated after January 1, 2007 would be affected. He said that Los Angeles County has placed its HAVA funds in escrow. *Roger Donaldson* repeated that some jurisdictions had escrowed their HAVA funding, and suggested that the DoE make an inquiry of the SoS regarding doing this also. *Tim Mayer* said that he wants to make sure that when a voter chooses "Susan", that their vote does not read "Bob". He wants the equipment to have open source so that voters can have elections they can depend upon.

Commissioner Townsend responded that to his knowledge, the City has not had an election in which "Susan" came up as "Bob" in the results. The Commissioner said that he trusts the Director and the DoE staff to do the good job they have been doing, and that he doesn't want to see the Commission micro-manage the Department. *Commissioner Matthews* said he agreed and would go a step further. He said that the reason that we don't have the "intended to vote for Susan and actually voted for John problem" is 99.9% and greater of votes that are cast in San Francisco are on paper. This is important because the same machine that marks your ballot is not the one that counts your ballot.

Commissioners Reports. Commissioner Matthews reported that he and the Commission Secretary attended the swearing in ceremony of Elections Commissioner Winnie Yu at the Chinese Historical Society of America on Clay Street. The facility and its exhibits are fascinating and he invited the members to visit as well.

OLD BUSINESS

(a) **Discussion and possible action to recommend approval of a Commission general policy statement regarding transparency in all San Francisco Elections Department activities involving voting systems technologies as well as providing voting systems security.** Commissioner Gleason reminded the members that this item had been forwarded to the BOPEC for wording of the policy and for a recommendation to the full Commission. Below is the policy draft from the Committee:

The Elections Department shall endeavor to ensure

maximum transparency in all Department activities providing the citizenry maximum disclosure of all Department activities involving the election process, and the administration of elections.

The elections Department shall endeavor to enable the citizenry to understand the methodology involved in the election process consistent with ensuring secret ballot protection and voting system security.

Commissioner Gleason MOVED and *Commissioner Victor Hwang* SECONDED that the Commission adopt the policy. Commissioner Gleason explained that the original wording that was proposed included the terminology of "open source", but the Committee intentionally removed that wording to exclude it from being the sole focus of the policy. Commissioner Matthews added that the removal of that reference was to "disentangle" the two different ideas of transparency from "open source", and that transparency has become a synonym for "open source" when "transparency" has its own separate meaning.

Commissioner Townsend said that he did not understand what "transparency in all Department activities means". He said he didn't know how it affects the DoE and its staff in doing their work. The Commissioner said he doesn't want to hide the process from the public, but it has to work so that the elections and the Department can be efficiently run.

Commissioner Matthews reminded Commissioner Townsend that the statement was a direct quote from the policy Commissioners Townsend and Mendelson presented to the Commission originally at the last full meeting.

Commissioner Shah said that she had problems with the policy because its scope is very broad. She asked what does the Commission want to achieve by the policy, is it to drive the software applications or is it a broader piece about Department activities?

Commissioner Hwang said that he would vote for this policy because the Department already complies with the transparency requirements that the policy would formalize and it is a good policy. He said that he recalls that the original language had "transparency" in the policy.

Commissioner Matthews confirmed that the original policy did include the word "transparency" and that the BOPEC purposely removed it for the reasons mentioned earlier, to disentangle the two concepts that people are using interchangeably. The Commissioner said that he remains unconvinced that open source is absolutely necessary, and unconvinced about much of the claims made by its proponents. He said that in San Francisco the problems that the proponents have cited, do not exist and can't happen in a paper-based system.

Commissioner Gleason said that he was supportive of the idea of open source, but that Commissioner Matthews is correct that the problem would be to have mark and tabulate in the same device. This is not what happens in San Francisco. He said that what we need is a more blanket policy.

Commissioner Townsend asked the Deputy City Attorney what were the transparency requirements currently and is there anything that is not allowed in this policy we are

considering. Deputy City Attorney Givner responded that transparency is a broad idea. The Department and Commission practice transparency in many ways such as websites, compliance with open meetings laws, public records laws and the Sunshine Ordinance. The discussion about this proposed policy focuses on voting equipment. Mr. Givner said that he does not see anything in the policy that the DoE doesn't already provide, however, the Director would have the discretion in terms of carrying out this policy, as he crafts contracts, RFPs and speaks to voting system vendors.

Commissioner Hwang said that he would like to re-introduce another version of the proposed policy similar to the one initially drafted by Commissioners Townsend and Mendelson after conferring with Commissioner Townsend. He said he would like to change the wording from creating open source to "the Department will endeavor to SELECT open source" technology. He said that he will consider such a proposal for the Commission's next meeting.

Public Comment. *Steven Hill* suggested separate resolutions that would separate open source and transparency. He said the current item for consideration was appropriate for transparency and that another policy should be proposed for open source. *Brent Turner* said every word matters and that the Commission and Department should defer to the experts in computers and science. *Tim Mayer* said

the concern is not what the Director or the Department is doing currently, it is the history of subsequent elections systems that are problematic. *Roger Donaldson* said that the policy is meaningless without the reference to open source. He said it's a feel-good statement that doesn't accomplish much. He asked about the status of the DoE's Task Force that was mentioned in the original policy. *David Pilpel* said that he trusts the Commission and Director to make good decisions, unlike previous speakers who said they do not like the word "trust", and he suggested tabling this item until there is something specific that comes to the front about open source.

The ROLL CALL VOTE to hold this item over to the next meeting and to include the results of the open source forum that the Commission held last year was:
Gleason – yes, Matthews – yes, Shah – no, Townsend – no, Hwang – yes, Yu – yes, Meek – Yes. The MOTION PASSED 5 to 2.

(b) Discussion and possible action regarding the disposition of over-voted ballots. Commissioner Gleason gave a brief history of this item having been tabled at a previous meeting at which a citizen, Chris Jerdonek, of FairVote, voiced concern regarding his encounter of over-voted ballots during the 1% post election canvass. At that time, Deputy Director Tulett pointed out that the over-voted ballots are not dealt with at the canvass. Commissioner Gleason said that this is on the agenda to answer the general question of what happens to these ballots. The DoE clearly informs the voter regarding what to do if he or she makes an error on their ballot and gives the voter options whether the vote is by mail or at the polling place. He said that there is no issue with how the Department informs voters about what can be done with their ballot in these instances.

However, these ballots do end up in the system and the issue of voter intent remains. He asked the Director and the Deputy City Attorney about the DoE's obligation regarding these over-voted ballots in the California Elections Code.

Director Arntz explained that the Eagles at the polling place will reject a ballot that contains an over-vote. The pollworker then gives the voter the opportunity to complete a

new ballot if the voter did not intend to over-vote. If the voter indicates that s/he wants to submit the ballot as marked, then the ballot is submitted, but the over-voted portion of the ballot will not be counted. When the Department receives an over-voted ballot from an absentee voter, the Department reviews the ballot to assess voter intent. If the Department can determine voter intent, then it remakes the ballot to eliminate the over-vote in accordance with the intent. If not, then the Department does not count the over-voted portion of the ballot.

7. NEW BUSINESS

(a) **Discussion and possible action to approve the Elections Commission minutes of the February 20, 2007, Special Meeting.** Commissioner Matthews MOVED and Commissioner Shah SECONDED this item. The Roll Call Vote was UNANIMOUS to Approve the minutes.

(b) **Discussion regarding an amendment to the Elections Commission Bylaws to include a regular meeting date and a new meeting time for the Budget and Oversight of Public Elections Committee.** Due to the need to post the final amendment for public viewing, this item was CARRIED OVER to the next Commission meeting.

(c) **Discussion and possible action to formulate a method and criteria for evaluating the Department of Elections' compliance with each Election Plan in the future.** President Meek said that having a chart with dates and events would be easier to refer to in the Election Plan and that the chart should be in addition to the current Election Plan narrative.

Commissioner Gleason said that there was already an item similar to item 7c before the BOPEC committee, but that it had been tabled until a future BOPEC meeting. However, he reported that item 7c was on the Commission agenda that night because Commission President Meek wanted to give all Commissioners a chance to voice any issue about adding to or changing the Election Plan before BOPEC went about working on it. He said that President Meek was concerned that the Election Plan have some criteria to evaluate the election.

This item was MOVED to BOPEC to be combined with the BOPEC item already tabled.

(d) **Discussion and possible action to send a letter to the Board of Supervisors urging the approval of an election system for 2007-2008.** Commissioner Matthew MOVED and Commissioner Gleason SECOND this item. President Meek presented the letter she wants to send to the Board of Supervisors.

Public Comment. *Brent Turner* said that the certification process is "broken" and that San Francisco is the "open source capital of the world". *Tim Mayer* said that a hand count should be prepared for now because the fight for open source will not end. *Roger Donaldson* said the letter is missing several comments such as a date by which a hand-count procedure must be begun, and an inquiry to the SoS regarding the extension of the certification of ES&S. *David Pilpel* said that a letter to the SoS is not on the agenda and would need to be taken up at another time, and that the malfunction of ES&S's equipment should be mentioned in the letter.

The Roll Call Vote was UNANIMOUS to send the letter with minor edits.

Discussion regarding items for future agendas. Commissioner Hwang said that he wants to work with Commissioner Townsend on the language for the transparency policy and that he intends to re-introduce the policy at the next Commission meeting. Commissioner Matthews said that to do what Commissioner Hwang suggests, may not be possible under Robert's Rules Newly Revised Edition, but suggested that Deputy City Attorney Givner should look into the answer.

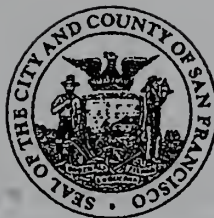
Public Comment. *Steven Hill* said that there could be new language from the people in the audience, who are very informed, could be added to the transparency policy. He said the previously discussed policy "didn't make any sense....wasn't using the term open source in the way that anyone who is interested in this subject understands". *Brent Turner* said that the original language offered by the Voting Consortium legal counsel used the international definition for open source. *David Pilpel* suggested that the Commission place on its website all of its policy statements.

8. Public Comment on any issue within the Elections Commission's general jurisdiction. *Roger Donaldson* suggested that a citizen's group regarding open source should be formed. *Brent Turner* agreed with Mr. Donaldson that a task force should be formed. Additionally, Mr. Turner suggested that the Commission invite the open voting solutions group to make a demonstration of their systems to a meeting or event.

nnouncement by the President. President Meek announced that the Commission still plans to have a Retreat. It is tentatively planned for May.

DJOURNMENT at 9:22 pm.

ELECTIONS COMMISSION
City and County of San Francisco



Jennifer Meek, President
Arnold Townsend, Vice President
Gerard Gleason
Victor Hwang
Richard P. Matthews
Tajel Shah
Winnie Yu

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

Elections Commission Meeting
Wednesday, April 18, 2007 at 7:00 pm
City Hall Room 408

ORDER OF BUSINESS

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **Announcements**

5. **Public Comment** on any issue within the Elections Commission's general jurisdiction.

6. **Director's Report**

- | | |
|------------------------|--|
| • Ballot Distribution | • Technology Division |
| • Budget/Personnel | • Voter Services |
| • Campaign Services | • Update on securing a voting system for 2007-2008 |
| • Outreach | • Update on Supplemental Budget 2006-2007 approval |
| • Poll Locating/ADA | • Update on 2007-2008 Budget approval |
| • Poll Worker Division | |

7. **Deputy City Attorney's Report**

8. **Commissioners' Reports**

- Meetings with public officials
- Meetings with nongovernmental organizations
- Oversight and Observation activities
- Long-range planning for Commission activities and areas of study

DOCUMENTS DEPT.

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9. OLD BUSINESS

- (a) Discussion and possible action regarding an amendment to the Elections Commission Bylaws to include a regular meeting date and a new meeting time for the Budget and Oversight of Public Elections Committee.
- (b) Discussion and possible action to recommend approval of a Commission general policy statement regarding transparency in all San Francisco Elections Department activities involving voting systems technologies as well as providing voting systems security. (Commissioners Victor Hwang and Arnold Townsend)
- (c) Discussion regarding holding an Elections Commission Retreat in May. (President Jennifer Meek)

10. NEW BUSINESS

- (a) Discussion and possible action to approve the Elections Commission minutes of the March 21, 2007 meeting.
- (b) Update from the Budget and Oversight of Public Elections Committee. (Chairperson Gerard Gleason)
- (c) Discussion and possible action regarding the items presented in the Director of Elections memo dated April 10, 2007 regarding the letter from the Secretary of State on Certification of San Francisco's Current Voting System.
- (d) Discussion and possible action to propose a resolution of appreciation for Commissioner Michael Mendelson for his service on the Elections Commission. (President Jennifer Meek)

11. Discussion regarding items for future agendas

12. Public comment on any issue within the Elections Commission's general jurisdiction.

ADJOURNMENT

Disability Access

The Elections Commission meeting will be held in Room 421, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA. The Commission meeting room is wheelchair accessible. The closest accessible BART station is the Civic Center Station at United Nations Plaza and Market Street. Accessible MUNI lines serving this location are: #42 Downtown Loop, and #71 Haight/Noriega and the F Line to Market and Van Ness and the Metro Stations at Van Ness and Market and at Civic Center. For information about MUNI accessible services call (415) 923-6142. There is accessible curbside parking adjacent to City Hall on Grove Street and Van Ness Avenue and in the vicinity of the Veterans Building at 401 Van Ness Avenue adjacent to Davies Hall and the War Memorial Complex.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact The Elections Office at (415) 554- 4375 or our TDD at (415) 554-4386 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals. Individuals with chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-6060.

Know your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7724; FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

Materials contained in the Commission packets for meetings is available for inspection at the Elections Department, City Hall Room 48, in the Commission's Public Binder, no later than 72 hours prior to meetings.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300, fax (415) 581-2317; web site at www.sfgov.org/ethics.

**DRAFT AMENDMENTS TO THE BYLAWS OF THE
SAN FRANCISCO ELECTIONS COMMISSION**

March 22, 2007

Note: *Article XIII of the Elections Commission Bylaws allow the Elections Commission to amend the Bylaws by a majority vote of the full Commission after circulating the proposed amendments at least 10 days prior to the meeting where a motion to amend is to be made.*

The Elections Commission may discuss these draft amendments at its April 18, 2007 meeting and, if any Commissioner wishes to put forth a motion to so amend the bylaws, a motion may be made and a vote may be taken at that meeting.

1. Amend Section 1 of ARTICLE VII, COMMITTEES, as follows:

Section 1. Standing Committee. The Commission shall establish one standing committee, the Budget and Oversight of Public Elections Committee. *The regular meeting of the Committee shall be held on the first Wednesday of each month at 6:00 p.m., except in the case of a City-recognized holiday, when the meeting shall be held on the first Thursday following the first Wednesday of the month. Meetings shall be held at City Hall, One Dr. Carlton B. Goodlett Place, Room 421, in the City of San Francisco. The Commission or the Committee may change the date, time or place of its regular meeting by motion. At any time, the President of the Commission or the Chair of the Committee may cancel a regular meeting, subject to provision of appropriate notice.*

2. Amend Section 4 of Article VIII, MEETINGS, as follows:

Section 4. Regular Meetings.

A. ~~The Commission shall establish a regular meeting time.~~ *Regular meetings shall be held on the third Wednesday of each month at 7:00 p.m., except in the case of a City-recognized holiday, when the meeting shall be held on the first Thursday following the third Wednesday of the month. Meetings shall be held at City Hall, One Dr. Carlton B. Goodlett Place, Room 408, in the City of San Francisco.*

B. ~~A change in the date, time and/or place of Commission meetings shall not require amendment of these Bylaws. Regular meetings and/or special meetings may be held at other places, dates or times, subject to provisions of appropriate notice.~~ *The Commission may change the date, time or place of its regular meeting by motion. At any time, the President may cancel a regular meeting, subject to provision of appropriate notice.*

9(a)



The Elections Commission

March 29, 2006 - Voting Systems Forum

Questions from attendees to the March 29, 2006 Forum on Voting Systems

1. *"Has anyone/group developed a good set of electionwatch material (for entire voting system of the election, not just the machine) especially for day of the election." - Kaye Griffin (kage@yak.net)*

Responses:

Warren Slocum, Chief Elections Officer, San Mateo County:

I don't know of any.

Alan Dechart, President, Open Voting Consortium:

I assume you mean something for voters to use in contrast to procedures that elections officials use. I believe that Black Box Voting has put together some materials along these lines.

Courtenay Strickland Bhatia of Verified Voting Foundation:

Various groups have developed materials for observing elections. The Election Protection Coalition, which is composed of many groups and led by People for the American Way and the Lawyers' Committee for Civil Rights Under Law, has Election Day polling place observation programs in various areas of the country and has created materials for the volunteer observers.

For the November 2004 elections, VVF sponsored a program called TechWatch, which focused on observing logic and accuracy testing of voting equipment by elections officials prior to Election Day, and on providing technical expertise to polling place observation during Election Day.

The Verified Voting Foundation web site provides significant guidance for observation, including information for observation at the central tabulating facility and questions for observers to consider when observing any logic & accuracy testing that is scheduled by the county.

Please see

<http://www.verifiedvotingfoundation.org/downloads/20041024.pollmonitorsguide.pdf>
for poll monitor observation information and

<http://www.verifiedvotingfoundation.org/article.php?id=6153> for
questions that observers can take with them when going to observe

9(b) 1

pre-election testing.

Individuals wishing to engage in observation at the county's central office may need to make advance arrangements due to space limitations. For observation of logic & accuracy testing, one would need to contact the Elections Department in advance to find out the schedule.

VVF has also worked with the Miami-Dade Election Reform Coalition in the past to sponsor "poll closing" observation in Miami, Florida. That particular observation program focused on ballot accounting at the time of poll closing – reconciling the number of votes cast on the machines with the number of voters signing in at the polling place. In November, 2004, such a program revealed election irregularities that offered lessons for election administration across the country.

For November 2006, VVF anticipates implementing a targeted observation program similar to the 2004 poll closing project in additional counties. We will be preparing materials for groups that wish to implement such a program.

2. ***"What is your opinion of increasing audits (to approx. 10%)?" – Jennifer Hammond.***

Responses:

Warren Slocum, Chief Elections Officer, San Mateo County:

I am OK with this proposal – and we should include absentees in the audit.

Alan Dechart, President, Open Voting Consortium:

Audits need to be improved. It's not just a matter of increasing the percentage, however. Ensuring a statistically valid audit is a complicated matter. How sure do we need to be that the results were correct? 99 percent? How about 99.9999 percent? Or what? And, what do you mean by correct? For example, consider these two questions:

1. Were there anomalies in the count?
2. Was the winner of the contest correctly declared?

Which question do we care about the most? In a landslide, there could be quite a few anomalies while we could still have a high confidence level that the winner was correctly determined.

Then, what actions are to be taken depending on the audit results?

Here's the problem: the best answer (which would include a lot of statistical formulas and such) is way too complicated and scientific to include in election law. The formulas would also depend somewhat on the voting technology employed. An answer with language simple enough to be included in a bill (like "10% audit") is not sufficiently detailed.

The best way to handle this would be to create a published standard

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and reference that standard in the law. This way, the standard could be refined and improved without needing to change the law. The law could say something like "audits will be done in accordance with the XYZ election audit protocol maintained by the National Institute of Standards and Technology (NIST)" (I'm not suggesting that NIST is the right body to maintain this standard – just using this as an example).

Courtenay Strickland Bhatia of Verified Voting Foundation:

The effectiveness of auditing a small number of precincts is greater in a statewide election than in a citywide election. This means that auditing 10% would be more useful for races representing fewer voters. There is an obvious cost tradeoff, though.

3. *"I tend to trust our optical scanning voting machines, but I wonder about the equipment downstream or i.e., the tabulating machines. How reliable are they?" – Allyson Washburn (V.P., League of Women Voters of SF)*

Responses:

Warren Slocum, Chief Elections Officer, San Mateo County:

There is no perfect system. I like them because in a recount situation you always have a real ballot voted by the voter.

Alan Dechart, President, Open Voting Consortium:

We can assume they are reliable because they have been tested. But should we assume that? Tabulating machines are black boxes whose inner workings cannot be checked by the public. We just have to take it on faith that the authorities are making sure. Shouldn't the details about how these systems work and how they are tested be made public? I think so.

Courtenay Strickland Bhatia of Verified Voting Foundation:

It is easier for someone with a password to change lots of votes in the Election Management System, which handles tabulation, than in lots of machines. However, it is also easier to audit the EMS, if the election office helps.

1. Precinct-by-precinct data should be posted on the internet as soon after the election as possible.
2. Precinct results should be posted at the polling place as soon as they are printed at the close of the election. California law can be read to require this, and Secretary Shelley issued a rule that it had to be done. That rule may still be in effect. Anyone can then compare the posted results with the results on the internet, and add up the numbers themselves.
3. Another step could be to ask poll workers to print extra copies of the results, and compare the numbers the next day to make sure the internet results match their numbers. While I don't know whether anyone does this, it would probably be doable.

This goes back to the primary point that it's important for the voting system in its entirety to provide transparency, reliability, and security, and for the system to be administered in a transparent, reliable, and secure manner. Tabulating machines can have vulnerabilities, both in terms of reliability and security, that must be managed. Ion Sancho, Supervisor of Elections in Leon County, Florida, showed how his own

9(b) 3

tabulating machine could be quickly manipulated by someone on the inside in order to change election results. It's important to choose the best possible equipment, but also to establish practices that will guard against exploitation of any vulnerabilities that the system may have. The three steps above are some good practices to follow.

4. ***"Is 'interpreted' code really prohibited by the FEC 2002 Regulation or is it merely 'voluntary' and if only voluntary – what are the teeth to the regulation?" – Pete Newcome***

Responses:

Warren Slocum, Chief Elections Officer, San Mateo County:

Cannot comment.

Alan Dechart, President, Open Voting Consortium:

This is a pretty complicated question, legally and technically. I'll try to be brief. Computers (binary computers, actually) only understand zeros and ones ("machine code"). Programmers don't write the machine code that computers understand directly. Programmers write code using words and symbols relevant to their programming language of choice. Before a program can run, these words and symbols have to be translated into code the computer can understand – the translation will be done by another program, either an interpreter or a compiler, that works with the specific language and computer in use.

There are a couple of ways programmers' code can be translated into machine code: all-at-once, or on-the-fly. Interpreted code is programmers' code that gets translated into machine code on-the-fly. The interpreter (the program that interprets or translates the programmers' code into machine code) works line-by-line as the program executes (actually, some modern interpreters are smart enough to do more than a line at a time). Have you ever seen someone giving a speech in one language, stopping periodically while an interpreter repeats what is said but in another language? It's like that, but with computers the first speaker is talking the programmer's language and the interpreter repeats it in machine language. In a way, this is inefficient because the code may be executed over and over as the program repeats all or part of what it is designed to do. So, the same line of code may be translated into the same machine code over and over. Why not translate all the programmers' code into machine code and be done with it?

A compiler does just that. It takes the programmers' code and translates the whole thing into machine code. No interpretation (or translation) is needed while the program is executing because it's all written out in machine code (analogous to the speaker-translator example, it's like the original speaker doesn't say anything ... only the translation is read). In this way, a compiled program is more efficient and will execute faster than interpreted code. So why use interpreters at all?

With an interpreter, you can change the code and then run it. With a compiler, you have an extra step. You change the code, compile it, and then run it. Compilation can be automated to a certain degree, but when programs get large and complicated, this extra step can take some time.

So, it's easier to change a program that uses an interpreter compared

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to a program that uses a compiler. Does this mean that interpreted code is more hackable (because it's easier to change)? Yes, in some ways, but not necessarily. A lot of this depends on the physical security of the equipment. A computerized system used in the voting process that has no interpreted code could still be hackable. If someone with sufficient knowledge and tools has access to the machine, s/he could introduce malicious software.

Do the 2002 standards prohibit interpreted code? I have read the standards and nowhere does it say anything like, "interpreted code (or interpreter) is not allowed." There are some requirements that would seem to exclude interpreters, but there is also some language that would seem to allow them (that's not the only instance where there is some vague and contradictory language in the standards). It has been asserted that interpreters are prohibited, and enough authorities seem to have bought into this viewpoint to make it fact (or near fact).

So, let's assume that the 2002 standards say that interpreted code should not be used. Does that really mean NO? Is it illegal to have interpreted code in a voting machine? Not exactly.

The guidelines are voluntary. No one is required to follow the standards. Furthermore, there has been little oversight when it comes to ensuring the standards are followed in the certification process. Certification is a transaction between two private companies: the vendor and the test lab. For the most part, no one else is involved and they keep everything a secret. The Help America Vote Act of 2002 (HAVA) created the Election Assistance Commission (EAC) and gave them some oversight responsibilities. However, this new system has not really kicked into gear yet (and it's not clear how new the system is or will be... the EAC hired Tom Wilkey, the guy that used to run the old system).

Notwithstanding the voluntary nature of the guidelines, the provisions may be considered mandatory for California. This is because California has chosen to opt into this system. Still, it can be a challenge to know what those provisions are. Test authorities seem to say interpreted code should not be used but they did allow it. Will they continue to allow it?

I have recommended (and will continue to recommend over and over) that CA opt out of this system. It will not be trivial to get out, and will take some time (if we opt out right now, we may have to repay some HAVA funds). We need to put an alternate system in place. We should probably be working with the EAC and the CA alternate system in parallel for a while before we cancel out of the old system.

So, to make a long story short, as long as California has opted into this system, we need to go along with the requirements. It's not perfectly clear that interpreted code is not allowed. The Secretary of State needs to find out.

Courtenay Strickland Bhatia of Verified Voting Foundation:

The interpreted code requirement is subject to interpretation (no pun intended). The recent report by the Secretary of State's Voting Systems Technical Assessment Advisory Board (VSTAAB) said that interpreters were contrary to the FEC 2002 requirement.

This rule has not been enforced well by the Federal certification process.

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Some technical experts say that interpreters are not inherently bad, although Diebold's way of using them is problem. The FEC 2002 regulations are neither clear, nor particularly well-informed technically on this question.

5. ***"California law requires an accessible voter-verified paper trail. When is a paper trail considered accessible, and do the voting systems certified for use in California meet or violate this state law?"*** – anonymous

Responses:

Warren Slocum, Chief Elections Officer, San Mateo County:

The paper trail component is deemed "accessible" when a voter can validate his/her vote independently and in private. In a DRE environment, the choices of a voter should be "read" back to the voter through headphones from the paper trail (EC 19251a). Currently, the Diebold, Sequoia, and the Hart InterCivic voting machines certified by the state "read" back votes from the tally component of the system, but not directly from the paper trail.

Alan Dechart, President, Open Voting Consortium:

See section 19251(a) of the election code:

19251. For purposes of this article, the following terms shall have the following meanings:

(a) "Accessible" means that the information provided on the paper record copy from the voter verified paper audit trail mechanism is provided or conveyed to voters via both a visual and a nonvisual method, such as through an audio component.

This section says the audio readback is supposed to come from the paper. I don't think any of the current systems do that. The audio is not obtained from the paper but from the stored data reflecting voter choices.

So, it seems that current DRE systems with the voter verified paper audit trail are in violation of state law.

Courtenay Strickland Bhatia of Verified Voting Foundation:

I don't think this question has been clarified. Verified Voting's position for a long time has been that people with disabilities have to be able to verify the contents of the VVPR, by electronic means if need be. In other words, the results have to be read off the paper, either by eye or electronically.

This requirement was in one of the original drafts of California's paper trail requirements, but it was then watered down. So far as we know, the AutoMark is the only accessible machine that reads back the marked ballots electronically.

6. ***"Does HAVA require counties to purchase new electronic voting systems? If not, has SF considered using the HAVA funds for good quality, transparent scanning equipment not the error-prone Sequoia machines?"*** – Lee Munson

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Responses:**Warren Slocum, Chief Elections Officer, San Mateo County:**

A: HAVA requires that all voters be able to vote independently and in private. Current scanning (paper base) voting system cannot meet this requirement by itself. Therefore, new electronic voting systems made to serve this segment of the voting population must be acquired.

Courtenay Strickland Bhatia of Verified Voting Foundation:

This is an excellent question, and one that Verified Voting has heard from several counties. In answer to it, we prepared a commentary entitled, "Voting Systems Purchases and the Help America Vote Act," which can be downloaded at <http://www.verifiedvotingfoundation.org/article.php?id=6346>. In short, before January 1, 2007, HAVA does permit the acquisition of ACCESSIBLE optical scan voting systems. On or after January 1, 2007, HAVA still permits the acquisition of accessible optical scan systems so long as HAVA Title II funds are used only for purchase of the accessible components.

At present, Verified Voting encourages the use of precinct-count optical scan voting systems and accessible ballot-marking devices as the most practical, cost-effective and accessible means of providing a voter-verified paper record, which is the essential ingredient for meaningful recounts and routine audits.

7. *"It seems to me that a 1% audit of precincts is inadequate. What can be done to improve the rigors of audits? We need to be reasonably sure that no cheating is going on."* – Jim Soper

Responses:**Warren Slocum, Chief Elections Officer, San Mateo County:**

A: As a general policy we should strengthen the Canvass of the Vote process which includes the 1% manual recount. Specifically we should increase the requirement from the current level; we should run software checks to ensure the version of software used on Election Day was the same as the version certified; and we should include absentees in the Canvass process. In addition, there should be a mandatory recount statute which would require the government to automatically recount a contest if it is within a certain percentage.

Alan Dechart, President, Open Voting Consortium:

Same answer as I gave in #2 above.

Courtenay Strickland Bhatia of Verified Voting Foundation:

For a statewide race, 1% may be enough. For a local race, it doesn't prove much. One solution is to count more precincts.

Randomly auditing small races is a big problem. Audits that take advantage of randomly selected BALLOTS instead of PRECINCTS could theoretically be much more effective, but they would require some way of individually matching paper and electronic ballots. We don't know if this method could be applied to existing equipment.

One step that can be taken to improve the rigors of audits is to make sure that random audits are truly random. In order to do this, selection of the precincts must be public, transparent, and random in a way that

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is easily observed by the general public. For example, a researcher with the ACCURATE (A Center for Correct, Usable, Reliable, Auditable, and Transparent Elections) project has suggested that rolling 10-sided dice under public observation might be one way to achieve true randomness and transparency at the same time.

8. ***"San Francisco's current voting equipment is pretty good (i.e., paper trail op-scan). Can we meet HAVA standards without throwing all that out? Something new might be worse."*** – Brian

Courtenay Strickland Bhatia of Verified Voting Foundation:

You have a point. Access for persons with disabilities needs to be addressed.

9. ***"Are efforts being made towards implementing background checks and enforcement for vendors?"*** – anonymous

Responses:

Warren Slocum, Chief Elections Officer, San Mateo County:

Not that I know about.

Courtenay Strickland Bhatia of Verified Voting Foundation:

Probably not. One issue that we might want to consider is whether procurement standards should be linked to the certification process – for example, requiring vendors to demonstrate their capacity to fill orders.

- 10. ***"Were the vendors the same in each of the voting poll places where there were discrepancies between reported counts and exit polls?"***

- anonymous

Response:

Courtenay Strickland Bhatia of Verified Voting Foundation:

No.

- For Alan Dechert:

Why advocate for complete open source systems, software; hardware & firmware, considering that 99% of people/voters are not technically skilled enough to even look at source code? And considering that some number of people who could, in fact, look at source code may be the type of person who would consider doing something malicious, why invite that? Would it not be better to allow "disclosed source" systems, and have a wide body of responsible individuals and organizations (including the Open Voting Consortium) invited to review software that is in a more accessible escrow environment? What is wrong with the "disclosed source" system?- Commissioner Gerard Gleason

Response:

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I covered part of this in my presentation. It doesn't matter if "99% of people/voters are not technically skilled enough to even look at source code." A similar percentage of people cannot evaluate legal code either. But we still want that freely available online for anyone that wants to study it.

The limited disclosure model you describe has its own problems. Who gets to review the code? Under what conditions? It may be a liability to look at it depending on what the disclosure agreement says. Will vendors have a say in approving/disapproving reviewers?

You specifically mention Open Voting Consortium but that may present serious conflicts of interest for us. I probably would advise our engineers to not look at it just as I did when VoteHere disclosed their source code. If few organizations/individuals get to see it, there may be too much work and responsibility placed on them. Real testing is a lot of work. Will the reviewers get paid? How much? By whom?

Review by prominent academics is not likely to be conclusive. They're going to find plenty of issues. I don't see disclosure as a way to give a thumbs up or thumbs down. Vendors need to come clean and say, "see, we have nothing to hide." This will improve public confidence. With full public disclosure, over time, the large body of reviewers will contribute improvements.

Generally, I favor full public disclosure because there are more pros than cons

- For Slocum, Dechart & Bhatia:

Why is there a need to allow individual California counties to select voting systems from a multitude of vendors? Many county registrars talk about the "uniqueness" regarding the voting systems needs of their jurisdictions, however it seems all elections require one simple product, a device to count votes. Some states have single system or selected choice voting systems. Given that in the private sector, 19 vendors would unlikely be able to compete delivering most products to such a restricted market need, why should California counties continue to engage in such a disjointed purchasing model? Why not restrict the selection to one or two reliable systems?

- Commissioner Gerard Gleason

Responses:

Warren Slocum, Chief Elections Officer, San Mateo County:

California counties have always enjoyed freedom from state control in this area despite the fact that under law counties are considered an arm of the state. Perhaps the government should sponsor efforts to create a open voting system that could then have incentives for counties to use? Local Registrars have always had the power to select the machines of their choice – I could envision the state changing this but it would be difficult. And once again, there is no perfect voting system and this approach would have pros and cons – plus the always present "unintended consequences."

Alan Dechart, President, Open Voting Consortium:

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I favor moving to one system in California – public software and commodity hardware. In this business model, election vendors would make their money on the services they provide to counties – not on the hardware and software. Hardware would be purchased from companies like Dell, IBM, HP, etc. Software would be free.

Courtenay Strickland Bhatia of Verified Voting Foundation:

It's possible to make statewide mistakes. Los Angeles does have different needs from rural counties, because of the sheer number of ballots. LA needs to allow voting in SEVEN languages, by law.

Also, if systems are chosen on a statewide level, we should be mindful of the impact that the voting machine selections of big states like California and Texas would likely have on the market as a whole. Voting machines could become like text books, with big states essentially determining through their choices what small states must use, since the vendors would likely cater to markets in the largest states.

With respect to the number of voting machine vendors, currently, the market is an oligopoly that is dominated by just a handful of companies. In Florida, all the vendors certified in that state refused for a time to do business with a Florida county whose election official exposed security vulnerabilities in his voting system. The small number of certified vendors (not to mention the behavior of the ones that were) was a big problem.

While this is not to say that we shouldn't adopt statewide systems, it is to say that there are a variety of factors that must be taken into account in determining whether that is a good idea.

- 14. *"I hear SF is considering Sequoia and Auto-Mark. Will SF consider one of the vote assistive devices, for example, Vote Pad or Equalivote to comply with HAVA's disability access requirements."* – Sherry Healy

Response:

None of the panelists responded to this question.

9(b) 10



MEMORANDUM

To: Honorable Gavin Newsom, Mayor
Honorable Members, Board of Supervisors

From: John Arntz, Director of Elections

A handwritten signature in black ink, appearing to be "JA", written over the "From:" line.

Date: April 10, 2007

Re: Letter from Secretary of State on Certification of San Francisco's Current Voting System

RANKED-CHOICE VOTING CERTIFICATION

Secretary of State Debra Bowen issued a letter expressing concern for San Francisco not having a voting system in place to fully conduct the November 6, 2007 election. Secretary Bowen notes the system from Election Systems & Software (ES&S) that the City plans to use is not certified for ranked-choice elections. In November, three citywide contests will require ranked-choice voting: Mayor, District Attorney, and Sheriff.

The Secretary of State's office previously certified the ES&S system to conduct ranked-choice voting elections (RCV) on a conditional, election-by-election basis. As I noted in a memorandum on October 31, 2006, the previous Secretary of State did not intend to certify the ES&S system that the City uses for any elections beyond November 2006. Secretary McPherson was willing to grant conditional certification since San Francisco was seeking to complete the request for proposal process and contract for a new voting system.

Currently, Secretary Bowen is unsure if she will require ES&S to submit its system for federal review and approval and the Secretary will not make that decision until ES&S files an application for certification with her office. ES&S believes the Secretary of State will again certify the voting system and that its system will not require federal review. ES&S did have its RCV system federally reviewed and approved in 2004 but the standards applied to the review process were established in 1990. Now, if the ES&S system does require federal review, standards established in 2002 will apply, and San Francisco's current system will never pass these stricter standards.

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Should the ES&S system not be certified for RCV, one scenario is the City will need to hand-count all ballot cards containing RCV contests, but will be able to machine-count all other contests and votes cast for ballot measures. A second scenario is the Secretary of State will consider it acceptable for RCV ballots to be machine-read to only count the first-place votes cast for the candidates. Under the second scenario, for those contests in which no candidate receives a 50% +1 majority from results accumulated from a machine-count, the City will then need to conduct a hand-count that will include the second and third choices to determine a winner.

A third scenario is the Secretary decertifying the ES&S system for use in California. In her letter, the Secretary stated,

Given the obsolete technical platform upon which the ES&S Eagle is based, and the high rate of failure experienced with this older, well-used equipment in your last election, it is far from certain that this equipment will be recertified for use in any future election, should ES&S choose to seek recertification.

Regarding the issue of the failure rate during the November 2006 election, the number of machines requiring on-site technical maintenance represented approximately 35% of the total number of machines in use on election day. In past years, preventative maintenance occurred on a yearly basis. The contract extension, however, requires ES&S to provide preventative maintenance before each election, starting with the November 2007 election and occurring before each of the three elections in 2008.

TOP-TO-BOTTOM REVIEW OF VOTING SYSTEMS

Unrelated to RCV certification, Secretary Bowen is in the process of establishing guidelines for evaluating all voting systems currently in use in California. This review is meant to ensure all voting systems operate securely, accurately, reliably, and are accessible for people with disabilities and for those requiring language assistance. Quite possibly, the Secretary will combine her review of ES&S' system for certification with the top-to-bottom review. Thus, while the City's present focus is on having a system that can conduct RCV elections this November, the Secretary's review of ES&S' system may expand our focus to whether San Francisco will also have a system for the February, June, and November 2008 elections.

BACKUP PLAN REQUIREMENT

During the more than two years the Department has tried to complete the request for proposal process to acquire new voting equipment, the City adopted an ordinance requiring the Department to prepare backup plans when contracting for a system not yet certified for use by the Secretary of State.

The Department of Elections shall prepare a backup plan for any election for which the voting system that the Department of Elections intends to use in compliance with the San Francisco Charter and state law at that election is pending certification from the California Secretary of State. This backup plan shall be included as part of the written plan submitted to the Elections Commission pursuant to Section 13.103.5 of the Charter. The backup plan shall

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comply with the San Francisco Charter and state law and provide for alternate vote-counting methods and procedures, including but not limited to the possibility of entering into a contract with an alternate vendor. In addition, when considering the approval of a contract for voting equipment, the Board of Supervisors shall give great consideration to whether that equipment complies at the time of signing the contract with the San Francisco Charter and has gained all necessary certifications from the California Secretary of State. SF MEC § 980

Under the current situation, the Department will enter a contract with ES&S to use a system not certified to conduct RCV elections. The Department developed hand-count procedures in 2004 when it was uncertain if the ES&S system would receive certification from the Secretary of State, and before the enactment of the ordinance required such planning. The Department will rely on its hand-count procedures should the ES&S system not gain certification in 2007. At the time the ordinance was drafted, however, the preference was for the Department to contract with a vendor able to provide machine-counts of ballot cards due to the laboriousness and delay in finalizing results when conducting a hand-count. At that time, the Department was preparing to present a resolution to the Board of Supervisors to approve a contract with Sequoia Voting Systems (Sequoia) but concerns that Sequoia would not receive State certification in time for the June 2006 election prompted the City to extend ES&S' contract through July 31, 2007. At the present time, a possible backup plan for the uncertified ES&S system that includes a machine-count is for the City to contract with Sequoia Voting Systems (Sequoia) as an alternative option to a hand-count.

Secretary of State Bowen's letter regarding the proposed certification of the ES&S system for RCV and her intention to conduct a top-to-bottom review of all systems in California highlights the uncertainty the Department faces in planning how it will conduct elections this November and the three elections in 2008. As I have done for the past three November elections, I will provide regular updates on the status of the certification of the ES&S system as well as provide information on matters that might impact upcoming elections in San Francisco. I will be glad to answer any questions you might have on these matters.

Encl; March 27, 2007 Letter from Secretary of State regarding Proposed Certification of Voting System
March 22, 2007 Draft Guidelines for Top-to-Bottom Review of Voting Systems Used in California

cc: Dennis Herrera, City Attorney
Ed Harrington, Controller
Ed Lee, City Administrator
Susan Mizner, Director, Mayor's Office on Disability
Phil Ginsburg, Chief of Staff, Mayor's Office
Nani Coloretti, Mayor's Budget Director
Greg Wagner, Budget Analyst, Mayor's Office
Jon Givner, Deputy City Attorney
Elections Commission

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DEBRA BOWEN | SECRETARY OF STATE | STATE OF CALIFORNIA

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**TOP-TO-BOTTOM REVIEW OF ELECTRONIC VOTING SYSTEMS
CERTIFIED FOR USE IN CALIFORNIA ELECTIONS**

The Secretary of State intends within the next several weeks to begin a top-to-bottom review of voting systems currently certified for use in California elections. The goal of the review is to determine whether currently certified voting systems provide acceptable levels of security, accessibility, ballot secrecy, accuracy and usability under federal and state standards. For those that do not meet acceptable levels, the review will help determine whether certification should be withdrawn unconditionally, or withdrawn subject to re-certification with additional conditions on use for elections in 2007 and 2008.

Pursuant to Elections Code Section 19222, any decertification decision would only be effective for elections held more than six months later. Accordingly, a decertification decision made on or before August 3, 2007, would be effective for the February 5, 2008, presidential primary election. Every effort will be made to complete the top-to-bottom review of all voting systems before August. This will ensure that no voting system known to fall short of California's high standards will be used in any of the three major statewide elections scheduled for 2008. It will also assure local elections officials, poll workers and voters that they will not be required to change voting systems during the short intervals between the February and June 2008 elections and between the June and November 2008 elections, unless a serious new flaw is discovered that makes a later decertification unavoidable.

What follows is a set of draft criteria to guide the review of currently certified voting systems. The Secretary of State welcomes questions, comments and recommendations for changes from local elections officials, voting system vendors and any member of the public. This is only a draft; the final criteria may reflect substantial revisions based on the responses received and/or further review.

Please submit your questions, comments and recommendations regarding the draft criteria in writing no later than March 30, 2007 to:

By mail:

Secretary Debra Bowen
1500 11th Street
Sacramento, CA 95814
ATTN: Voting Systems Review, 6th Floor

By e-mail:

votingsystems@sos.ca.gov

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After considering all questions, comments and recommendations submitted in response to the draft criteria, the Secretary of State will adopt final criteria no later than April 6, 2007.

DRAFT CRITERIA

Section 19205 of the Elections Code authorizes the Secretary of State to establish specifications for voting machines, voting devices, vote tabulating devices, and any software used for each, including the programs and procedures for vote tabulating and testing. These criteria must include suitability for the purpose for which a machine or device is intended, preservation of the secrecy of the ballot and safety of the voting system from fraud or manipulation. Pursuant to the authority established in Elections Code Section 19205, as well as the authority established by Section 12172.5 of the Government Code and Sections 10, 19222, 19227 and 19250 of the Elections Code, the Secretary of State hereby establishes criteria for the review of all voting systems currently certified for use in the State of California.

In each of the examination and testing processes set forth below, qualified reviewers selected by the Secretary will evaluate compliance with the mandatory provisions of the Elections Code, voluntary federal voting system standards as incorporated into California law by the Elections Code, and other applicable requirements imposed by state and federal law, including, but not limited to, Article II, Sections 2.5 and 7 of the California Constitution.

I. SECURITY.

1. Security Standards.

For purposes of these standards, "untraceable vote tampering" means preventing the accurate electronic recording of votes, or altering the record of votes, to change the result of an election in a manner that leaves no electronic record of tampering. "Denial of service attack" means disabling a voting system other than through sheer physical destruction in a manner that renders the voting system inoperable for voting.

a. **DREs.** Each direct recording electronic voting system ("DRE"), as defined in Elections Code Section 19251(b), must incorporate, as part of its design, hardware, firmware and/or software program features that effectively secure the DRE and all electronic media used with the DRE against untraceable vote tampering or denial of service attacks by any person with access to the DRE, its firmware, software and/or electronic media during their manufacture, transport, storage, temporary storage, programming, testing and use, including the electronic ballot definition or layout process.

b. **Vote Tabulating Devices.** Each "vote tabulating device," as that term is defined in Elections Code Section 358, must incorporate, as part of its design, hardware, firmware and/or software program features that effectively secure the vote tabulating

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3/22/2007

device and all electronic media used with the vote tabulating device against untraceable vote tampering or "denial of service" attacks by any person with access to the vote tabulating device, its firmware, software and/or electronic media during their manufacture, transport, storage, temporary storage, programming, testing and use.

c. Ballot Tally Computers and Ballot Tally Software. Each computer used to tally ballots and each "ballot tally software program," as that term is used in Elections Code Section 19103, must incorporate, as part of its design, hardware, firmware and/or software program features that effectively secure the computer, the ballot tally software program and all electronic media used with the computer and program against untraceable vote tampering or "denial of service" attacks by any person with access to ballot tally software program, the ballot tally computer, its firmware, software and/or electronic media during their manufacture, transport, storage, temporary storage, programming, testing and use.

2. Security Testing.

The security of each DRE, vote tabulating device and ballot tally computer will be tested using two complementary methods, "red teaming" and source code review. The Secretary will select qualified industry and academic experts in computer and software security, including experts in electronic voting systems, to perform both types of tests.

a. Red Teaming. The "red teaming" process is analogous to military training exercises in which the members of the "red team" are adversaries trying to defeat friendly, "blue team" forces. The red team exercise will be designed to simulate conditions in which a voting system might be vulnerable to attack in the actual cycle of manufacturing, programming, delivery, testing, storage, temporary storage and use in California elections. Initially, the team will approach the system knowing nothing of its source code. Knowledge of source code may be used in subsequent attack attempts. The objective will be to determine whether and to what degree it is possible to compromise the security of the voting system to interfere with the accurate recording of votes or alter the record of votes to change the result of an election.

b. Source Code Review. The second component of security testing will be source code review. The objective of the source code review will be to identify anything in the code that could be used maliciously to interfere with the accurate recording of votes or alter the record of votes to change the result of an election. The source code review may be performed prior to, during or after completion of the risk assessment.

3. Security Findings.

Upon completion of either component of the security testing, the Secretary of State may make written findings that a DRE, vote tabulation device or ballot tally computer is not reasonably secured against untraceable vote tampering and "denial of service" attacks by features included in the design of its hardware, firmware and/or

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software. On the basis of such written findings, the Secretary may immediately initiate the process to withdraw certification.

II. ACCESS FOR VOTERS WITH DISABILITIES.

1. Disability Access Standards.

The federal Help America Vote Act (HAVA) requires that all polling places in elections for federal office have at least one voting system that is "accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters."

Under Elections Code Section 19250(a), the Secretary of State may not certify a DRE unless the system "includes an accessible voter verified paper audit trail." Elections Code Section 19250(d) requires that all DRE voting systems "shall include a method by which a voter may electronically verify, through a nonvisual method, the information that is contained on the paper record copy of that voter's ballot." Under Elections Code Section 19251(a), "'[a]ccessible' means that the information provided on the paper record copy from the voter verified paper audit trail mechanism is provided or conveyed to voters via both a visual and a nonvisual method, such as through an audio component."

2. Disability Access Testing.

Each voting system will be examined to determine whether it complies with the accessibility requirements of HAVA and the Elections Code. The examination will be conducted with the assistance of persons from the disabled community. For purposes of this review, a voting system complies only if it provides all of the following features and capabilities in at least one voting system available for use in every polling place:

(a) A dual-switch input control interface that permits use of "sip and puff" or other adaptive devices by voters with paralysis or severe manual dexterity disabilities who are unable to use touch screens or tactile key inputs.

(b) The capability for the voter to select simultaneous and synchronized audio and visual outputs, audio outputs only or visual outputs only.

(c) Voter-adjustable magnification, contrast and display color settings to improve the readability of text on the video displays.

(d) Variable audio output levels and playback speed for voters with hearing impairments.

(e) Privacy curtains or shields that effectively prevent others from observing or hearing the selections of a voter using such features as audio output, simultaneous,

synchronized audio and visual output, display magnification or modified display font, contrast or color settings.

(f) In the case of a DRE, the capability to permit a voter to verify electronically, through a nonvisual method, the information that is contained on the voter verifiable paper record copy of that voter's ballot. This requirement is satisfied by a method of nonvisual confirmation that draws the information provided to the voter from either (1) the paper record copy itself or (2) the same electronic data stream used to print the voter verifiable paper record copy.

3. Disability Access Findings.

The Secretary of State may make written findings, based on the results of the disability access testing described above, that a voting system fails to include any of the foregoing disability access features and capabilities, in which case the Secretary of State may immediately initiate the process to withdraw certification from the voting system for disability access use.

III. ACCESS FOR MINORITY LANGUAGE VOTERS.

HAVA requires that every voting system used in an election for federal office "shall provide alternative language accessibility pursuant to the requirements of Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a)." Every certified voting system will be tested to determine whether it provides alternative language accessibility in the federally mandated language or languages for each county that uses or intends to use the system. If the Secretary of State makes written findings, based on the results of the minority language access testing, that a voting system does not provide alternative language access as required by federal law, the Secretary of State may immediately initiate the process to withdraw certification from the voting system with respect to the affected county or counties.

IV. USABILITY FOR ELECTIONS OFFICIALS AND POLL WORKERS.

Each certified voting system must be designed, configured and accompanied by sufficient documentation and training materials so that, in the absence of extraordinary circumstances, elections officials and poll workers can independently and without assistance or intervention by employees or contractors of an election system vendor, carry out all operations necessary to open the polls, set up and calibrate voting system equipment, instruct and assist voters in registering votes and casting ballots, respond to voting system error messages or temporary power failures, close the polls, print end-of-day vote totals, take down voting system equipment, transfer polling place results to central tally computers and tally final results.

The Secretary of State will conduct a review of each voting system's documentation and records regarding the use of the voting system by elections officials and poll workers in California elections. The Secretary of State may make written findings, based on the results of the review, that a voting system does not reasonably permit such independent operation. Based on such findings, the Secretary of State may immediately initiate the process to withdraw certification from the voting system.



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March 27, 2007

2007 APR -2 AM 11:18
DEPARTMENT OF ELECTIONS

Mr. John Armtz
Director of Elections
City and County of San Francisco
1 Dr. Carlton B Goodlett Place, Room 48
San Francisco, CA 94102-4635

Dear Mr. Armtz:

I've been following with great interest the process the City and County of San Francisco has been engaged with respect to contracting for a new voting system that will accommodate San Francisco's needs.

Since your November 2007 election will be conducted as a ranked-choice voting (RCV) election, and there are no systems currently certified by either California or the Election Assistance Commission to conduct such an election, you face a unique dilemma. The now-expired certification of your current Election Systems and Software (ES&S) voting system was granted in October 2006 on a one-time only basis for purposes of the November 7, 2006, General Election. The extension of the 2004 single-purpose certification was granted solely to give San Francisco time to contract for a new system for use in 2007 and beyond.

As I've said many times in the past several months, I am firmly committed to ensuring that the voters of California are asked to cast their ballots on equipment that is secure, accurate, reliable, accessible, and auditable. To this end, I will be conducting a top-to-bottom review of all currently certified voting systems very shortly. Given the obsolete technical platform upon which the ES&S Eagle is based, and the high rate of failure experienced with this older, well-used equipment in your last election, it is far from certain that this equipment will be recertified for use in any future election, should ES&S choose to seek recertification.

California Elections Code section 19201 stipulates that no voting system can be used for an election in California unless the Secretary of State has approved that system for such use. To be safely deployed for an election, the system should be approved at least 45 days before any scheduled election to allow sufficient time for user acceptance testing, voter education and outreach, election-specific set-up, logic and accuracy testing, and the related tasks associated with conducting a flawless election. My examination process will take a minimum of six weeks in order to meet all statutory requirements, and certainly any issues that arise during that testing can lengthen the process. Therefore, it's safe to say that any system in search of state certification needs to be federally certified and

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Mr. John Amtz
March 27, 2007
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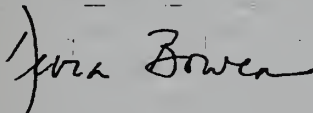
submitted to my office by August 1 to have a chance of being certified for use in the November 6, 2007, election.

Given the uncertainty of the newly emerging federal qualification process, which can take months and is a pre-requisite to California testing and certification, it is imperative that the federal testing of whatever RCV voting system San Francisco may wish to use begin as soon as possible.

I know there are many unique issues involved with contracting for a new voting system and it's certainly not my intent to short-circuit that process in any manner. However, I do think it's imperative that you realize both the time it will take to certify a new system for use by November 6, 2007, and the hurdles the City and County of San Francisco's old system would face if ES&S – which was told six months ago that the system wouldn't be recertified – attempts to have that system recertified for use this year.

Please feel free to call on me or my staff at (916) 653-7244 if we can be of assistance or answer any questions.

Sincerely,



Debra Bowen
Secretary of State

DB:elg

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City and County of San Francisco
Elections Commission
Approved: May 16, 2007
Minutes of the Meeting at City Hall Room 408
April 18, 2007

DOCUMENTS DEPT.

SEP 27 2007

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- **1. CALL TO ORDER.** President Jennifer Meek called the meeting to order at 7:06 pm.
- **2. ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Tajel Shah, Arnold Townsend, Victor Hwang, Winnie Yu, Deputy City Attorney Jon Givner, and Director of Elections John Arntz. EXCUSED: Commissioner Richard P. Matthews
- **3. Director's Report.**

8/07

Director Arntz said that the division reports are slow because the managers are going over their plans and procedures for the November election and this is the time of the year when staff can take their vacations.

Update on Supplemental Budget 2006-2007 approval – The Mayor's Office requested that the Department submit its Supplemental Budget to the Board of Supervisors last Tuesday. Yesterday it was assigned to the Budget and Finance Committee. The Director said that he assumed that there will be a Budget Analyst report made and he hopes the DoE's (Department Of Elections) supplemental will be on the Board's agenda for the Budget and Finance Committee next Wednesday or the following Wednesday at the latest. Then there will be a final hearing and one reading before the full Board of Supervisors. This means the process is completed by mid-May. At that time the Department will be in budget negotiations for the next fiscal year. There have been no changes to the budget since the Commission last reviewed and approved it.

Update on securing a voting system for 2007-2008 – Yesterday at the Board of Supervisors, a resolution was approved to authorize the DoE to contract with Elections Systems and Software (ES&S) to extend the current contract for up to seventeen months. The Board indicated that although they approved the extension with ES&S, the Department would remain in negotiations with Sequoia Voting Systems to finalize terms of that contract. The Board, therefore, did not seek for the Department to cancel the RFP (Request For Proposals), issued in 2005. ES&S has not yet sent the Director a signed contract.

ES&S must still seek certification for Ranked Choice Voting (RCV) for use in the November 2007 election. The SoS (Secretary Of State) has indicated concerns regarding the technology on which the ES&S system is based and the timeframe under which the company is seeking certification.

If the ES&S system is not certified for this fall's RCV election, the Director said he believes the equipment will be certified to run the general election. Therefore, a hand count would be

used for the second column count of the RCV contests in the election.

The SoS has said that she will not make a determination of how she will approach the review and possible certification of the ES&S system until an application is filed by ES&S in the SoS's office. ES&S has told the Director that it will have a letter into the SoS next week to begin the certification process.

Regarding the break down of machines on Election Day, the Director stated that ES&S has assured him that a project manager will be brought in next week, who will look at the Eagles to determine what parts need to be replaced and to do preventive maintenance. Additionally, the Director reported that once the application is submitted to the SoS, she will make a determination if the system will need federal review. The system did pass this review in 2004, but it was not a full review, just a "functional" testing. If the SoS sends the system for FULL federal review, it would be based on the 2002 standards, but the system is not likely to pass those standards.

Item 10 (c) was taken out of order:

Discussion and possible action regarding the items presented in the Director of Elections memo dated April 10, 2007 regarding the letter from the Secretary of State on Certification of San Francisco's Current Voting System. Director Arntz said that Secretary of State Bowen issued the letter under discussion. The letter mentions a "top to bottom" review of all systems used in California. Director Arntz said that he did not know what this would mean for ES&S. He said he believes that if this should happen, the Department would be able to use ES&S in November but not for the February Primary.

Commissioner Townsend said that the Commission should have moved more quickly to _____ assist the Department in the approval of Sequoia as the selected vendor, and now the Department is going to need to do an expensive hand count.

Commissioner Hwang asked the Director if there should be ongoing negotiations with Sequoia to arrive at language agreeable with the Board of Supervisors regarding open source in their contract with the City, because if that language is added, that company could be ready for the February election. *Director Arntz* replied that Supervisor Peskin says that the Board is approving the extension with ES&S, but they want the DoE to continue negotiations with Sequoia Voting Systems.

Commissioner Gleason asked the Director for a report next month on what ES&S finds in its review of the "breakdowns" in equipment during the last election.

Director Arntz announced that Deputy Director Linda Tulett has accepted the position of Director of Elections for Monterey, California. He and the Commission thanked Ms. Tulett for her over two years service to the San Francisco Department of Elections.

President Meek asked the Director if he had any predictions regarding the cost to do a hand count for the November Election. Director Arntz said that the Department had researched the costs for a hand count for the 2004 election and that he could provide those numbers to the Commission.

Public Comment. *Steven Hill* said it was an industrial reality in elections that you get what you pay for, and you have to pay ahead of time. *Brent Turner* said that he wanted to give the

Commission a letter from the SoS he had received that day that says she is behind the “psychology” of open voting. *Roger Donaldson* suggested that the Commission confer with the State of New Hampshire which, he said, is a completely hand count state.

1. **Deputy City Attorney’s Report.** Deputy City Attorney Jon Givner reported that there are two pieces of litigation pending involving San Francisco elections. “Defend Bayview Hunter’s Point vs. San Francisco” is pending in Superior Court: Last June the Mayor signed an ordinance adopting a redevelopment plan for Bayview Hunters’ Point. In September, the Clerk rejected a referendum petition challenging the adoption of the plan because the circulators of the petition had not included any part of the Redevelopment Plan with the petition, as the law requires. In December, the proponents of the referendum filed a petition for a writ of mandate. It is currently pending. It will be argued on May 7th.

“Paralyzed Veterans of America vs. McPherson” was filed by several non-profit organizations and individuals against the State and four counties (including San Francisco) alleging that the voting system used does not provide adequate access to people with disabilities. The trial date is set for early fall.

Public Comment. *Brent Turner* said his business experience leads him to think that once someone talks about litigation, especially before they enter into a contract, that this is a company you with which you want to avoid doing business.

1. **Commissioners’ Reports.** *Commissioner Hwang* reported that he met with representatives of an organization called “Protection and Advocacy”. The group mentioned that they were considering a legal suit over the lack of disability accessibility due to the breakdown rate of voting equipment. The group asked for a copy of the report that Commissioner Hwang drafted regarding his experience during the last election with equipment failures. Commissioner Hwang said that he wonders about the usefulness and the risks involved in commissioners monitoring and documenting their observations on Election Day in the future.

Commissioner Hwang said that he contacted Supervisor Daly’s office about the language involved in Item 9 (b) on today’s agenda. The Commissioner did not get a response, but said that it appeared to him that Supervisor Daly was the main Supervisor who wanted to see some kind of language included and the Commissioner wanted to add something that would make the Supervisor more comfortable.

Deputy City Attorney Givner said that if Commissioners are considering drafting documents, it is a good idea to call the City Attorney’s Office; and if the Commission would like to discuss potential litigation risks, the Commission can schedule a closed session for that discussion.

Commissioner Gleason asked that this item be added to the agenda for the upcoming Elections Commission Retreat.

Commissioner Shah announced that she would be attending a luncheon tomorrow at the

Commonwealth Club to hear Director Arntz and others discuss Ranked Choice Voting.

Public Comment. *Steven Hill* said that the Commission should be separate from the Department and be able to make reports about problems.

OLD BUSINESS

(a) **Discussion and possible action regarding an amendment to the Elections Commission Bylaws to include a regular meeting date and a new meeting time for the Budget and Oversight of Public Elections Committee.** Commissioner Gleason MOVED and Commissioner Townsend SECONDED this item for approval.

The Roll Call Vote was UNANIMOUS to amend the Bylaws.

(b) **Discussion and possible action to recommend approval of a Commission general policy statement regarding transparency in all San Francisco Elections Department activities involving voting systems technologies as well as providing voting systems security.** (Commissioners Victor Hwang and Arnold Townsend)

Commissioner Hwang said that what was presented to the Commission at this meeting was the result of his "tinkering" with the original resolution by Commissioners Townsend and Mendelson. He said he now feels he did too much, and wants to clarify his main change in the wording. Commissioner Hwang said that he wanted to clarify that the Commission supports in principle the idea of public disclosures and that it is not the same as open source, although the language of open source does appear in the resolution. He said that the principle difference is the issue of copyright and intellectual property. The idea behind this resolution, he said, is to encourage the Department to adopt a voting technology system that maximizes the ability of folks to review and have trust in the system. It doesn't convey a license to any third party.

President Meek said that, because she had only just received this statement, it didn't appear that it locks the Department into using open source. It is her intent that the Department uses whatever is the best application for San Francisco. Deputy City Attorney Givner agreed after reading the statement, that it does not lock the Department into anything and if it did, then the Commission would be over stepping its bounds regarding directing the Department. That line, he said, may be approached at other points in the document.

Deputy City Attorney Givner wanted to call the Commission's attention to the second paragraph of non-italicized text: "Whereas the San Francisco Board of Supervisors have recently refused to ratify a contract", he said that is not accurate. Deputy City Attorney Givner said that the Board has acknowledged that negotiations are on-going with Sequoia. He also noted that at no point did the Commission approve or ratify the Sequoia contract, nor was it the Commission's responsibility to do so.

Commissioner Hwang asked that other Commissioners, who may have questions, let him know their comments or suggestions for this policy statement so that he can include them in his next version.

President Meek reminded Commissioner Hwang that the Task Force mentioned in the last paragraph of the policy does not exist.

Director Arntz said the Task Force is on hold until the Department has a voting system.

Commissioner Townsend said that *Commissioner Matthews* had emailed him and asked that he inform the Commission that he would like this item held over until he could be present to vote.

Commissioner Townsend said that he wanted to see that in no way does the Commission support that the vendor's information be on-line. He said that if open source means that anyone can access our vendor's information at any time, he is NOT in favor.

Commissioner Gleason said that regarding the last paragraph, perhaps the wording should say "involving public working groups" instead of "task force".

Commissioner Hwang said that this policy statement was something that the Committee should have addressed and that it could have been hashed out there, but instead he was very disappointed when it came back. He said he will attempt to draft a neutral statement with which everyone will be comfortable in terms of the Commission valuing public input and dialog in the creation or transition into open source.

President Meek asked Commissioners to individually contact *Commissioner Hwang* with any further comments and suggestions for the policy statement.

President Meek asked that this item be HELD OVER the next Commission meeting.

Public Comment. *Brent Turner* said that open source is well defined and there are international standards. *Chris Jerdonek* suggested that policies in the statement should begin with "it should be the policy of the Department to..." to make it clear. He said it was not clear to him whether "urges" and "recommends" is more informal than establishing a policy or if those words were an establishment of a policy. *Roger Donaldson* applauded the Commission for taking up this issue. He said there are computer scientists who say that there is greater security through transparency and scrutiny, than in keeping things secret.

- **(c) Discussion regarding holding an Elections Commission Retreat in May.** (*President Jennifer Meek*) After discussion, it was decided to hold the Retreat on Wednesday, June 20, 2007.

D. NEW BUSINESS

1. **Discussion and possible action to approve the Elections Commission minutes of the March 21, 2007 meeting.** *Commissioner Gleason* MOVED and *Commissioner Hwang* SECOND approval of the minutes.

A Roll Call Vote was UNANIMOUS to approve the minutes for March 21, 2007.

- (b) **Update from the Budget and Oversight of Public Elections Committee.** *Committee Chairperson Gerard Gleason* reported that the Committee is in the process of going through the Election Plan to streamline it, particularly to highlight quantifiers for post-election evaluation. The Committee asks all Commissioners to review the past Election

Plan and let the Committee know of any suggestions for improvement, with the goal of streamlining it to make it more readable for the public.

President Meek asked if the Committee would have a draft ready in time for the Retreat in June. Chairperson Gleason responded affirmatively, and said it was the Committee's goal to have the draft ready as soon as possible, in order to not make these changes burdensome to the Elections Department when staff are preparing for the November Election.

(c) **NOTE: This Item was taken out of order and discussed during the Director's Report earlier in these minutes.**

1. **Discussion and possible action to propose a resolution of appreciation for Commissioner Michael Mendelson for his service on the Elections Commission.**

President Jennifer Meek said that Commissioner Mendelson was one of the original members of the Elections Commission when it was first established in 2002.

Commissioner Gleason MOVED and Commissioner Yu SECONDED this item.

Commissioner Gleason said that he was sorry that there hadn't been an opportunity to thank the Commissioner before he left, and that he has had many interesting discussions with him over the years.

Commissioners Gleason and Townsend said that they felt this resolution was inadequate and wished there was more that the Commission could do. Commissioner Townsend said that the resolution should include the fact that Commissioner Mendelson served as President of the Commission during a very difficult period.

Director Arntz said that the San Francisco's Election Department was facing different and difficult times when Commissioner Mendelson first took office when the Commission was formed, and that Commissioner Mendelson had served on the Commission through times of extensive and positive change.

Commissioner Hwang suggested an additional "whereas" for Commissioner Mendelson's expertise of Robert's Rules of Order.

A Roll Call Vote was UNANIMOUS to present former Commissioner Mendelson with a Resolution of Appreciation.

1. **Discussion regarding items for future agendas.** Commissioner Hwang suggested a letter to the Secretary of State supporting the certification process.

1. **Public Comment.** *Brent Turner* said that if the Director needs assistance, monetarily or physically, in moving in the direction of open source, "we should consider what it takes to get him what he needs to accomplish this sort of philosophy". *Tim Mayer* said that he agreed with Commissioner Hwang that the Commission should make sure that the ES&S equipment is certified, and that a letter to the SoS will have an impact. He said that he

could direct the Commission and the Director to on-line locations where they can see open source systems and demonstrations.

DJOURNMENT at 9:08 pm.

ELECTIONS COMMISSION
City and County of San Francisco



Jennifer Meek, President
Arnold Townsend, Vice President
Gerard Gleason
Victor Hwang
Richard P. Matthews
Tajel Shah
Winnie Yu

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

Elections Commission Meeting
Wednesday, May 16, 2007 at 7:00 pm
City Hall Room 408

ORDER OF BUSINESS

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **Announcements**

5. **Public Comment** on any issue within the Elections Commission's general jurisdiction.

6. **Director's Report**

- Ballot Distribution
- Budget/Personnel
- Campaign Services
- Outreach
- Poll Locating/ADA
- Poll Worker Division
- Technology Division
- Voter Services
- Update on securing a voting system for 2007-2008
- Update on Supplemental Budget 2006-2007 approval
- Update on 2007-2008 Budget approval
- Update regarding ES&S review of the breakdowns in equipment used in the November 2006 election. (Requested by Commissioner Gleason at the April 18, 2007 meeting)
- Update regarding the cost for the ballot hand count for the November 2006 election. (Requested by President Meek at the April 18, 2007 meeting)

7. **Deputy City Attorney's Report**

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8. Commissioners' Reports

- Meetings with public officials
- Meetings with nongovernmental organizations
- Oversight and Observation activities
- Long-range planning for Commission activities and areas of study

9. OLD BUSINESS

- (a) **Discussion and possible action to approve a Commission general policy statement regarding transparency in voting systems technologies as well as providing voting systems security. This item was held over from the April 18, 2007 Commission meeting. (Commissioners Hwang and Townsend)**
- (b) **Discussion of topics and items for the Elections Commission Retreat to be held June 20, 2007. (President Meek)**

10. NEW BUSINESS

- (a) **Discussion and possible action to approve the Elections Commission minutes of the April 18, 2007 meeting.**
- (b) **Discussion and possible action to send a letter to the Secretary of State supporting the certification process. (Commissioners Shah and Yu)**

11. Discussion regarding items for future agendas

12. Public comment on any issue within the Elections Commission's general jurisdiction.

ADJOURNMENT

Disability Access

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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7724; FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

Materials contained in the Commission packets for meetings is available for inspection at the Elections Department, City Hall Room 48, in the Commission's Public Binder, no later than 72 hours prior to meetings.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300, fax (415) 581-2317; web site at www.sfgov.org/ethics.

DRAFT

GENERAL POLICY STATEMENT FOR TRANSPARENCY IN VOTING SYSTEMS
AND VOTING SYSTEMS SECURITY

Whereas California Secretary of State Debra Bowen has expressed strong support for a move towards open source election software;

Whereas the San Francisco Board of Supervisors recently did not ratify a contract for voting machines which did not allow for open source software;

And whereas the San Francisco Department of Elections has already established a task force to look into a transition into open source technology;

Pursuant to Section 13.105.5, San Francisco Charter which authorizes the Election Commission to establish general policies for the Elections Department, the Elections Commission establishes the following general policies;

First, the Elections Commission endorses the use of voting system technologies and software that maximize voting system security while at the same time providing the maximum level of transparency possible to assure voters that their votes will be counted as cast.

Specifically, the Commission adopts as policy that at a minimum, all voting systems technology used in the City and County of San Francisco, including hardware and software, should be publicly disclosed. To ensure the integrity of our elections and increase public confidence in our government, members of the public should have the right to inspect, test, and comment on such technology in a procurement process and as configured for a specific election independent of the San Francisco Department of Elections or other government agency of the City and County of San Francisco,

Second, the Commission adopts as policy that the Election Department shall endeavor in contracting to prioritize and select if possible, voting systems and vendors which provide the maximum level of security and transparency possible consistent with the principles of public disclosure. This policy will enable the citizenry to understand the methodology involved in the election process, in a manner consistent with ensuring secret ballot protection and voting system security.

Third, the Commission strongly commends the Department's initiative announced on January 19, 2007 to create an Elections Department Task Force on Open Source, established to develop specific goals and a methodology to implement both transparency in voting technology and voting system security. The Department is urged to provide regular updates to the Commission on the progress of the Task Force.

Agenda for June Elections Commission Retreat

- (1) Overview on the History of the Commission -- Presenter: TBD
- (2) Overview of the Department of Elections -- Presenter: Department Managers
- (3) Overview of Election Day Processes -- Presenter: TBD
- (4) Current Procedures for certifying Electronic Voting Systems in California and Future Plans for Elections in California -- Presenter: Someone from SoS
- (5) Current Procedures for certifying Electronic Voting Systems at the Federal level and Future Plans for Elections at the Federal level-- Presenter: Someone from EAC
- (6) Roles and Responsibilities of the Elections Commission (Presentation and Discussion) -- Presenter: Jon Givner
- (7) Discussion of Ideas for Improving Commission and Future Plans/Projects

9(b.)

City and County of San Francisco
Elections Commission
Approved: June 6, 2007
Minutes of the Meeting at City Hall Room 408
May 16, 2007

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- **1. CALL TO ORDER.** President Jennifer Meek called the meeting to order at 7:00 pm.

- **2. ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Tajel Shah, Richard P. Matthews, Winnie Yu, Deputy City Attorney Jon Givner, and Director of Elections John Arntz. Commissioners Arnold Townsend and Victor Hwang arrived after the Roll Call.

- **3. Announcements.**

President Meek announced that the Commission Secretary is investigating space available for the Commission's Office outside City Hall.

Director's Report.

Ballot Distribution: The Division's manager is on leave after the birth of his daughter for several months. One member of the Division is working on DoE payroll, and another staff person is working on DoE's purchasing due to the Department's overall low staffing.

Budget/Personnel: The Supplemental Appropriation Budget has moved from the Board of Supervisors to the Budget Analyst's office. The report is due this week, and the budget goes to the Board's Committee calendar next Wednesday.

Campaign Services: There is a move to recall Supervisor Jake McGoldrick (District One). Notice has been given to the Supervisor, he has filed his reply and the Division is in the process of examining the petition.

Outreach: Interviews for two Outreach staff will begin on Friday. There are sixteen candidates for these positions.

Update on securing a voting system for 2007-2008: The Secretary of State (SoS) denied Elections Systems and Software's (ES&S) request for an administrative extension. There is now a list of criteria for the "top to bottom review" for every system that is certified for use in California elections. This review is to ensure that the systems voters use are secure, reliable, accessible and accurate. The SoS sent a letter to ES&S stating that the company could re-submit its application for an extension if its "top to bottom review" is successful. ES&S has currently pulled the system that San Francisco uses from this review because it says it has completed federal certification for the AutoMark and the Unity (which is the software that runs the voting system). When a company has an upgrade or a change to its voting equipment, it must be recertified. The Director said that ES&S will submit the Eagle Machine for certification review. There has been no change to the Eagle, so this certification

is a unique situation. The SoS has said that all voting equipment has to meet the 2002 Federal Voting System standards. The Director said that the Eagle and 4-C system that San Francisco uses does not meet those standards, and cannot be modified to do so. ES&S must submit an application before the SoS will make any determination. Director Arntz stated that he has tried to contact ES&S but has not received a response to his calls.

There is a “real possibility” that the DoE will have to do a hand count in November.

Commissioner Matthews asked the Director how could the Department use a machine count. Director Arntz said there are a lot of scenarios but until the SoS receives the ES&S application, it is only conjecture. Some suggestions from Director Arntz included: the ballot count happen at City Hall; or there could be a new ES&S system; or that the Sequoia Systems contract could be completed.

Commissioner Matthews asked the Director if it was likely that the SoS would require new criteria, such as open source, for elections before November 2007. Director Arntz replied that the statement from the SoS regarding its “top to bottom review” says that intellectual property is protected by law and that the SoS will not go beyond state law in providing access and disclosure of system software.

Commissioner Hwang said that the Los Angeles response to the SoS’s statement regarding the “top to bottom review” made reference that that City’s equipment, in a previous election, was not certified by the SoS and they went forward with an election without the certification. The Commissioner asked what would be the consequence if San Francisco did the same. Director Arntz responded that he would not run equipment that was not certified.

Commissioner Gleason asked if the SoS was only concerned with the Ranked Choice Voting (RCV) ballot counting, and not the Eagle. Director Arntz replied that with the new standards for all California voting systems by the SoS, the Eagle and RCV would need to be certified – that is, the entire system. Commissioner Gleason asked the Director if other counties are using the Eagle and 4-C. The Director responded that San Francisco is the only county using this equipment.

Commissioner Shah asked the Director what the Commission could do to help. Director Arntz answered that the Commission could communicate to the Secretary of State’s Office that the Commission supports a “top to bottom review”, stronger standards for voting systems and that at the same time there is concern about a hand count, and that whatever San Francisco can do procedurally and operationally to perhaps use the Eagles or the 4-C’s, to make sure that the ballots are marked in the manner that the machines can read would be helpful.

Commissioner Townsend stated that whatever the City does with ES&S, the outcome would be the same as it is now, because that vendor is unresponsive. The Commissioner asked the Director if he has gotten any return phone calls from ES&S. The Director responded that he had not.

Commissioner Gleason said that five years ago, during the one percent audit, the ballots balanced on a hand count with the machine tabulation; and that two years ago the RCV tabulation showed one anomaly to the data sets and it was tracked to its cause. He said that these instances should be in the Department’s plea to the SoS that the machines actually do work. A hand count alone, can be susceptible to human error.

President Meek said that the letter from the SoS seems to point to non-certification for the ES&S equipment. She asked Director Arntz if using Sequoia was still an option. Director Arntz responded that it was. President Meek asked the Director if he could come up with a list of options for the Commission and the Board of Supervisors.

Update regarding the cost for the ballot hand count for the November 2006 election:

Director Arntz said that in 2003, ES&S had not developed its system for RCV. The DoE developed its hand count process that was certified by the SoS and the numbers and costs he prepared in the handout for this meeting is based on that information.

Commissioner Hwang asked the Director what ES&S was seeking regarding recertification. Director Arntz said that ES&S has pulled everything from the "top to bottom review", but the company is going for recertification of their newer system and are attaching the Eagle and 4-C to that application. Commissioner Hwang then reminded the Director that the Eagle and 4-C do not meet the 2002 standards. Director Arntz agreed and said that if there is a "strict" application of the standards to the Eagle and 4-C, they will not pass the certification review. Commissioner Hwang asked if it was possible that the contract with ES&S be "bumped up to their newer system?" Director Arntz replied in the negative. The Director said that the City has an extension of an existing contract and it does not cover the newer system, and he reminded the Commission that ES&S's new system does not have RCV.

Director Arntz said that he has been trying to get an answer from the SoS to the following question: If there's nothing certified for RCV, can the City at least use the machines to get the first choice votes and report that vote? However, the SoS will not consider this question until it receives an application.

Update regarding ES&S review of the breakdowns in equipment used in the November 2006 election: Director Arntz said that he has provided the incidents reports from the June and November 2006 elections for the AutoMark and Eagle machines. He said that there were many slow-downs on the 4-Cs when they were counting the absentee votes. The problems were not just that the machines were old and breaking down. The Director put the blame on the system that required ongoing repairs. The November 2004 election was a four-card ballot for the districts that had Supervisor contests and then a three-card ballot for the rest of the City – this was the highest voter turnout since 1952 in San Francisco. During that election, the DoE had a 27% technician response rate for problems with the equipment. The November 2006 election had a 33% technician response rate. This seems to show that the equipment is wearing down.

Public Comment. *David Pilpel* said that the DoE was still doing a good job under increasingly adverse circumstances. He said one of the options the DoE might consider is to declare a state of emergency to be able to use portions of the Sequoia System if they are more likely to be certified, at least for those portions of the system that would be eligible for a machine count. Mr. Pilpel said that maybe there could be another solution for the November 2008 election, but the November 2007 and the February 2008 elections were too close together to change systems. *Sasha Ielmorini* said that the SoS letter does not say that she will not certify, but that she would not administratively recertify the system and that this gives her hope. Additionally, the speaker said that she has placed calls to ES&S and received return calls within 24 hours. *Brent Turner* said that San Francisco is setting the precedent for the United States for open source and saying "no" to Sequoia. *Jennifer Hammond* said she wanted to remind the Commission that the circumstance of the Sequoia purchase hasn't

changed, it was an obsolete system. *Carol Bella* said that in March of 2006 Sequoia was not yet RCV certified, and that she was no fan of ES&S either. She added that this year Sequoia was asked to insert a small clause in its contract supporting open source and the company would not do it. *Tim Mayer* said that the worst case scenario is that the City count the ballots by hand.

- **4. Deputy City Attorney's Report.** Deputy City Attorney Jon Givner said he had no new information to report.

OLD BUSINESS

1. **Discussion and possible action to approve a Commission general policy statement regarding transparency in voting systems technologies as well as providing voting systems security.** Commissioner Hwang presented his new draft to the policy which contained changes suggested by the City Attorney's office. Commissioner Shah MOVED and Commissioner Hwang SECONDED this item. Commissioner Matthews MOVED to amend the policy by deleting the final paragraph that commends the DoE for doing something that it has not yet done. Commissioner Gleason SECONDED the amendment. Commissioner Hwang said that he had no objection to the amendment.

The Roll Call Vote on the amendment was UNANIMOUS to approve it.

Commissioner Matthew said that he was not convinced that the policy was a state question, and not a county policy issue. Commissioner Hwang said that each county selects its own election system hardware.

Commissioner Townsend said that he doesn't see how having codes on line will ultimately work for the voters.

Commissioner Yu said that she feels that as technology becomes more pervasive, these questions about sharing information and privacy issues will come up as well as how the government is managing it all.

Commissioner Matthews said where voting equipment exists in places where the voter marks the ballot and that ballot is counted in the same machine there is a "black box problem." This is not what happens in San Francisco. In our City, there is a unit, either your hand or the AutoMark, that marks a paper ballot and then a second unit counts it and then there's the one percent manual tally. At that manual tally, the vote comes out to match the tally exactly. This proves that the machines are counting our ballots correctly. The Commissioner said that if people want to increase the manual tally from one percent to three percent or five percent, we can have that discussion. But in terms of trying to avert a problem that doesn't really exist – that is what open source does.

Commissioner Hwang disagreed and said that the City does have a "black box problem", not a problem necessarily with fraud, however although we have an open system where people can observe the process, at the end of the day it is a black box

– we put the ballot in and we don't know what happens in that box.

Public Comment. The following speakers were in support of this policy: Sasha Ielmorini, Brent Turner, Roger Donaldson, Tim Mayer. David Pilpel suggested a couple of typographical corrections to the policy, and said he was most concerned about the word "shall" in the last paragraph and that use of that word may tread on the Commission's power vs. the Director's power. He added that the meaning of this policy has different interpretations.

The Roll Call Vote was: Matthews – No; Gleason – Yes; Shah – Yes; Townsend – Yes; Hwang – Yes; Yu – Yes; Meek – Yes. The item CARRIED with a vote of 6 to 1.

1. **Discussion of topics and items for the Elections Commission Retreat to be held on June 20, 2007.** President Meek asked the Commissioners to let her know of any topics not listed on the draft Retreat Agenda. Commissioner Gleason said that he has given Deputy City Attorney some materials to review for inclusion on the agenda. Director Arntz said that he would like the Commissioners to take a tour of the Department during the Retreat. Commissioner Shah asked that there be discussion under "Overview of Election Day Processes" of what roles the Commissioners can play. President Meek said that this topic could also be discussed under "Roles and Responsibilities".

Public Comment. *David Pilpel* suggested that the Commission get a clear description of what the Commission can and cannot do and where the line of powers and duties lie, because it comes up often in meetings.

10. NEW BUSINESS

1. **Discussion and possible action to approve the Elections Commission minutes of the April 18, 2007 meeting.** Commissioner Matthews MOVED and Commissioner Townsend SECONDED this item. A Roll Call Vote was UNANIMOUS to approve the minutes.

1. **Discussion and possible action to send a letter to the Secretary of State supporting the certification process.** Commissioner Shah said that the situation has changed since the letter was first proposed and the draft was written. Commissioner Gleason said that a correction should be made to use the wording "administrative review" or recertification, and that the letter should explain that the Department is caught between "a rock and a hard place." Commissioner Townsend said that he was in favor of the letter but that he objected to the fact that the Commission now has to write a letter to the SoS to ask that it push through something that ES&S should have accomplished itself, and that we are asking to be treated differently from other counties. President Meek added that the letter needs to cover not just the RCV system, but the entire system. Commissioner Shah asked that the letter be tabled until the results of the "top to bottom review" are known.

Commissioner Matthews MOVED and Commissioner Gleason SECONDED that the Commission President be authorized to make a call to the Secretary of State on behalf of the Commission to support the certification process and to express its concerns about not having a system and the options that are available.

A Roll Call Vote was: Gleason – Yes; Matthews – Yes; Shah – Yes; Townsend – No; Hwang – Yes; Yu – Yes; Meek – Yes. Item CARRIED with a vote of 6 to 1.

11. **Discussion regarding items for future agendas.** President Meek reminded the Commission that the Director's term of office will end May 2008 and suggested a Closed Session meeting during July to discuss the process. Commissioner Townsend said that he would like to propose to reaffirm the Director immediately and not wait until July.

ADJOURNMENT at 9:17 pm.

ADDENDUM

(Statements meeting attendees asked to have attached to these minutes):

From Brent Turner -

Mr. Turner said the commission is doing a great job and that he believes this is a matter of civil rights and election integrity in that the county is avoiding a trap set in motion by incarcerated politician Bob Ney through the "HAVA Trap". Mr. Turner stated the Board of Supervisors was proper in standing strong against Sequoia as the company refuses to disclose their source code after being asked to abide at least three times. Mr. Turner continued to say he looks forward to Secretary of State Bowen's top to bottom review and that he thinks all the machines might fail the review. Mr. Turner continued that it is fiscally sound for the county to have stayed in place with E S & S - . Mr. Turner said a hand count is preferable to a possibly dirty machine count and that open source is the best solution. Mr. Turner noted the Department of Defense and the Air Force are impressed with their new open source systems. Mr. Turner said the Secretary of State will eventually consider open source systems as the current certification process is confirmed as broken. Mr. Turner thanked the commission for performing great patriotic duty.

From Carol Bella – (in addition to her comments on page four of these minutes)

To me what this illustrates is the absolute hold these voting machine companies have on our electoral process. We are at their mercy. That is the problem here. How is Sequoia's customer service any better here? I am glad we are standing up in SF and not buyin into this HAVA trap.



ELECTIONS COMMISSION
City and County of San Francisco

Jennifer Meek, President
Arnold Townsends, Vice President
Gerard Gleason
Victor Hwang
Richard P. Matthews
Tajel Shah
Winnie Yu

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

SPECIAL MEETING

Elections Commission Meeting
Wednesday, June 6, 2007 at 6:00 pm
City Hall Room 421

ORDER OF BUSINESS

1. CALL TO ORDER

2. ROLL CALL

3. FLAG SALUTE

4. Announcements

5. Director's Report

- Update on securing a voting system for 2007-2008

6. NEW BUSINESS

- (a) Presentation of information regarding certification of ES&S voting system for 2007-2008 (ES&S)**
- (b) Discussion and possible action regarding steps the Commission can take to ensure that San Francisco has a certified voting system in 2007-2008. The Commission may consider sending a formal request to the Secretary of State or the Board of Supervisors, passing a resolution for distribution to the Board of Supervisors urging action, authorizing one or more Commissioners to speak in person with members of the Board of Supervisors or representatives of the Secretary of State, or other actions to achieve these goals.**
- (c) Discussion and possible action to approve the Elections Commission minutes of the May 16, 2007 meeting.**

7. Public comment on any issue within the Elections Commission's general jurisdiction.

ADJOURNMENT

8:10 a.m. msf
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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7724; FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

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Lobbyist Registration and Reporting Requirements

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City and County of San Francisco
Elections Commission
Approved: June 20, 2007
Minutes of the Special Meeting at City Hall Room 421
June 6, 2007

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- **1. CALL TO ORDER.** Commissioner Gerard Gleason called the meeting to order at 6:06 pm.
- **2. ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Richard P. Matthews, Victor Hwang, Winnie Yu, Deputy City Attorney Jon Givner, and Director of Elections John Arntz. Commissioners Tajel Shah and Arnold Townsend arrived after the Roll Call. EXCUSED: President Jennifer Meek.
- **3. Announcements.**

The Commission Secretary announced that the next meeting of the Elections Commission would be a Retreat on Wednesday, June 20, 2007 in City Hall Room 034, at Noon.

Deputy City Attorney Jon Givner announced that Deputy City Attorney Ann O'Leary will be returning this week and will be working part-time until August. Both will be sharing Elections Department and Commission assignments. Mr. Givner asked the Commissioners to consider him their primary contact, and if he is unavailable, to contact Ms. O'Leary. Both attorneys will be present at the retreat.

1. Director's Report: Update on securing a voting system for 2007-2008.

Director Arntz reported that the Department is awaiting Elections Systems & Software (ES&S) getting their application in to the Secretary of State's Office (SoS) to begin the certification process. He said it appears, in the information he has received from ES&S, that the company is combining the certification with the "top to bottom review". These are separate processes. The "top to bottom review" is for existing certified systems, not for a system that has been updated or that is seeking certification. The Eagle system is not going through the "top to bottom review"; it will require an application for certification to be turned in to the SoS.

Public Comment. Brent Turner said that he spoke to Mr. Lou Dedier of ES&S today and he was easy to reach by phone.

Commissioner Shah asked members of the public to contact ES&S and encourage them to submit their application by Friday.

1. NEW BUSINESS

1. **Presentation of information regarding certification of ES&S voting system for 2007-2008 (ES&S)** Commissioner Gleason referred to the statement received from ES&S earlier today, and attached to these minutes. He said that he questioned the wording in the last sentence regarding the 4C's being able to read "basically" any marking device, when he spoke to ES&S earlier today and was given a vague response that referred him to the Operations Manual.

Director Arntz said that he was informed by ES&S that they intend to have their application in SoS by Friday of this week and he doesn't want to consider preparations for back up plans until SoS has made a decision.

Public Comment. *Brent Turner* said that the main point with the tabulator is the source code that the DoE should continue on the path of "transparent systems", and that he is in favor of a count instead of a machine count without transparency.

1. **Discussion and possible action regarding steps the Commission can take to ensure that San Francisco has a certified voting system in 2007-2008.** The Commission may consider sending a formal request to the Secretary of State or the Board of Supervisors, passing a resolution for distribution to the Board of Supervisors urging action, authorizing one or more Commissioners to speak in person with members of the Board of Supervisors or representatives of the Secretary of State, or other actions to achieve these goals. Commissioner Hwang asked if the Commission had previously sent a letter to the Board. Commissioner Shah answered that the Commission decided not to send the letter at the previous meeting because of timeliness and the Commission authorized the President to speak to the Secretary of State's Office. Deputy City Attorney Givner explained that there was an interim period of confusion regarding whether ES&S had submitted its application for certification, after the company had pulled out of the "top to bottom review", and now we know that ES&S hasn't submitted its application.

Director Arntz said that he hoped that the Commission would contact ES&S and push for them to get their application into the SoS.

Commissioner Hwang MOVED and Commissioner Shah SECONDED that Vice President Townsend telephone ES&S to request that they get their application in to the SoS by Friday of this week and to follow up with a letter regarding this request.

Public Comment. *Brent Turner* said he had never had a problem reaching ES&S by phone and that they have been responsive to him in the past. *Carol Bella* said that neither ES&S or Sequa were any good, and that in a couple of years companies will have a better system. *Jennifer K* said paper ballots would be better and provided copies of hand counting instructions that were successfully used in New Hampshire.

The Roll Call Vote was UNANIMOUS to contact ES&S.

1. **Discussion and possible action to approve the Elections Commission minutes of the May 16, 2007 meeting.** Commissioner Matthews MOVED and Commissioner Hwang SECONDED the approval of these minutes.

Public Comment. *Carol Bella* said that she felt that an important part of her comments May 16th meeting was not recorded in the minutes. She asked that the Commission allow to append written comments to the minutes after the meeting. *Roger Donaldson* complimented the Secretary on the Commission's accurate minutes and said that he understood that sometimes what a speaker thinks is an important point in that speaker's statement could be overlooked. *Brent Turner* asked that the Commission allow him to submit written comments.

Deputy City Attorney Givner suggested, and Commission Secretary Rodriques agreed, that all attendees may provide a statement of not more than 150 words which can be attached to the minutes. Commissioner Matthews asked whether merely listing the speakers would satisfy the Sunshine Ordinance. Deputy City Attorney Givner responded that the ordinance requires the speakers be listed, that the minutes note whether they supported or opposed the motion (or any), and that the minutes include a brief summary of their comments, which may be as simple as "Mr. X supported the motion," depending on the comments. The Commission has the authority to amend the minutes before adoption to ensure their accuracy.

Commissioner Shah MOVED and Commissioner Matthews SECONDED an amendment to the MOTION to allow for attachments to the minutes of statements of no more than 150 words from speakers. The Roll Call Vote was UNANIMOUS for this amendment.

The Roll Call Vote to approve the minutes with the amendment was also UNANIMOUS.

ADJOURNMENT was at 7:09 pm.

ATTACHMENTS:

From: Election Systems & Software:
Statement for the City of San Francisco
4C and Eagle Tabulation Systems
6/6/07

ES&S received from the State of California last Thursday the information needed to move forward with the California Top to Bottom System Review. ES&S is currently reviewing the new agreement provided by the State, and is preparing to release a new application that includes RCV for the City of San Francisco. Working closely with the Secretary State Office, ES&S will try to establish the earliest testing date possible. We will keep the City of San Francisco informed of our effort, and planning surrounding this new certification event.

One item that has come up prior to the State certification event concerning the City of San Francisco is the difference in the scanning capabilities between the 4C central tabulators and Eagle tabulation machines. The 4C central tabulators rely on visible light technology, and have been run successfully in thousands of elections in the City of San Francisco as well as across the country. Absentee ballots can be successfully run through the 4C central tabulators since many different marking devices may

be used. The Eagle tabulation machines which rely on infrared scanning technology have also been used in thousands of elections. The Eagle tabulators are used in the precincts and have approved marking devices supplied with them to make sure the scanners properly see the ballot marks. The major difference from the scanning point of view is making sure that accepted marking devices are used during in-precinct voting with the Eagle tabulation machines as opposed to the 4C's which can have basically any marking device.

ELECTIONS COMMISSION
City and County of San Francisco



Jennifer Meek, President
Arnold Townsend, Vice President
Gerard Gleason
Victor Hwang
Richard P. Matthews
Tajel Shah
Winnie Yu

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

Elections Commission Retreat and Special Meeting
Wednesday, June 20, 2007, at 1:00 pm
City Hall, Ground Floor, Room 034

ORDER OF BUSINESS

1. CALL TO ORDER
2. ROLL CALL
3. FLAG SALUTE
4. ANNOUNCEMENTS
5. Overview of Retreat and Meeting Procedures
6. Overview of the Department of Elections
 - Election Day Procedures Overview (Commissioner Meek)
 - Walk-through of the Department (Director Arntz and Staff)
7. History of Commission (Commissioner Matthews)
8. Overview and Discussion of Commissioner roles, Duties and Responsibilities (Deputy City Attorneys Jon Givner and Ann O'Leary)
 - a. Overview of public meeting laws
 - b. Roles of Commission and the Department
 - c. Roles and Duties of Individual Commissioners
9. Discussion of Ideas for Improving Commission and Future Plans/Projects (Commissioner Meek)
10. Director's Report
 - Ballot Distribution
 - Budget/Personnel
 - Campaign Services
 - Outreach
 - Poll Locating/ADA
 - Poll Worker Division
 - Technology Division
 - Voter Services
 - Update on securing a voting system for 2007-2008
 - Update on Supplemental Budget 2006-2007 approval
 - Update on 2007-2008 Budget approval

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11. Discussion and possible action regarding securing a voting system for 2007-2008 and report from Commission Arnold Townsend regarding his assignment from the June 6, 2007 meeting to call ES&S.
12. Discussion and possible action to approve the meeting minutes of June 6, 2007.
13. Overview of Appointment Procedures for the Director of Elections (Deputy City Attorney Givner)
14. Discussion and possible action whether to hold Closed Session pursuant to Ralph Brown Act, section 54956.9 and Sunshine Ordinance section 67.10(d).

CLOSED SESSION

15. Closed Session discussion on Personnel Performance and possible reappointment of current Director of Elections.
16. Discussion and possible action regarding disclosure of closed session pursuant to Ralph Brown Act section 54957.1 and Sunshine Ordinance section 67.12.
17. **PUBLIC COMMENT** on any issue within the Elections Commission's general jurisdiction.

ADJOURNMENT

Disability Access

The Elections Commission meeting will be held in Room 034, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA. The Commission meeting room is wheelchair accessible. The closest accessible BART station is the Civic Center Station at United Nations Plaza and Market Street. Accessible MUNI lines serving this location are: #42 Downtown Loop, and #71 Halght/Noriega and the F Line to Market and Van Ness and the Metro Stations at Van Ness and Market and at Civic Center. For information about MUNI accessible services call (415) 923-6142. There is accessible curbside parking adjacent to City Hall on Grove Street and Van Ness Avenue and in the vicinity of the Veterans Building at 401 Van Ness Avenue adjacent to Davies Hall and the War Memorial Complex.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact The Elections Office at (415) 554- 4375 or our TDD at (415) 554-4386 to make arrangements for the accommodation. Late requests will be honored, if possible.

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SAN FRANCISCO DEPARTMENT OF ELECTIONS AND ELECTIONS COMMISSION
STATEMENT OF INCOMPATIBLE ACTIVITIES

I. INTRODUCTION

This Statement of Incompatible Activities is intended to guide officers and employees of the San Francisco Department of Elections (“Department”) and Elections Commission (“Commission”) about the kinds of activities that are incompatible with their public duties and therefore prohibited. For the purposes of this Statement, and except where otherwise provided, “officer” shall mean the executive director (“director”) and a member of the Commission, and “employee” shall mean all employees of the Department.

This Statement is adopted under the provisions of San Francisco Campaign & Governmental Conduct Code (“C&GC Code”) section 3.218. Engaging in the activities that are prohibited by this Statement may subject an employee or officer to discipline, including possible termination of employment or removal from office, as well as to monetary fines and penalties. (C&GC Code § 3.242; Charter § 15.105.) Before an employee or officer is subjected to discipline or penalties for violation of this Statement, the employee or officer will have an opportunity to explain why the activity should not be deemed to be incompatible with his or her City duties. (C&GC Code § 3.218.) Nothing in this document shall modify or reduce any due process rights provided pursuant to the employee’s collective bargaining agreement.

In addition to this Statement, employees and officers are subject to Department policies and State and local laws and rules governing the conduct of public employees and officers, including but not limited to:

- The Political Reform Act, California Government Code § 87100 *et seq.*;
- California Government Code § 1090;
- The San Francisco Charter;
- San Francisco Campaign and Governmental Conduct Code;
- San Francisco Sunshine Ordinance;
- Applicable Civil Service Rules; and
- *The California Elections Code.*

Nothing in this Statement shall exempt any employee or officer from applicable provisions of law, or limit his or her liability for violations of law. Examples provided in this Statement are for illustration purposes only, and are not intended to limit application of this Statement. Nothing in this Statement shall interfere with the rights of employees under a collective bargaining agreement or Memorandum of Understanding applicable to that employee.

Nothing in this Statement shall be construed to prohibit or discourage any City officer or employee from bringing to the City’s and/or public’s attention matters of actual or perceived malfeasance or misappropriation in the conduct of City business, or from filing a complaint alleging that a City officer or employee has engaged in improper governmental activity by violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee’s City position; or abusing his or her City position to advance a private interest.

No amendment to any statement of incompatible activities shall become operative until the City and County has satisfied the meet and confer requirements of State law and the collective bargaining agreement.

If an employee has questions about this Statement, the questions should be directed to the employee's supervisor or to the director. Similarly, questions about other applicable laws governing the conduct of public employees should be directed to the employee's supervisor or the director, although the supervisor or director may determine that the question must be addressed to the Ethics Commission or City Attorney. Employees may also contact their unions for advice or information about their rights and responsibilities under these and other laws.

If a City officer has questions about this Statement, the questions should be directed to the officer's appointing authority, the Ethics Commission or the City Attorney.

II. MISSION OF THE SAN FRANCISCO DEPARTMENT OF ELECTIONS AND ELECTIONS COMMISSION

The mission of the Department of Elections is to conduct all public federal, state, district and municipal elections in the City and County. (Charter § 13.104.) The mission of the Elections Commission is to set general policy for the Department. (Charter § 13.103.5.)

III. RESTRICTIONS ON INCOMPATIBLE ACTIVITIES

This section prohibits outside activities, including self-employment, that are incompatible with the mission of the Department. Under subsection C, an employee or officer may seek an advance written determination whether a proposed outside activity that is not expressly prohibited by subsections A or B of this section is incompatible and therefore prohibited by this Statement. Outside activities other than those expressly identified here may be determined to be incompatible and therefore prohibited. For an advance written determination request from an employee, if the director delegates the decision-making to a designee and if the designee determines that the proposed activity is incompatible under this Statement, the employee may appeal that determination to the director.

A. RESTRICTIONS THAT APPLY TO ALL EMPLOYEES AND OFFICERS

1. ACTIVITIES THAT CONFLICT WITH OFFICIAL DUTIES.

No employee or officer may engage in an outside activity (regardless of whether the activity is compensated) that conflicts with his or her City duties. An outside activity conflicts with City duties when the ability of the employee or officer to perform the duties of his or her City position is materially impaired. Outside activities that materially impair the ability of an employee or officer to perform his or her City duties include, but are not limited to, activities that disqualify the employee or officer from City assignments or responsibilities on a regular basis. Unless otherwise noted or permitted under subsection C, the following activities are expressly prohibited by this subsection.

a. No employee or officer may be a candidate for an elective office that will appear on the ballot in the City and County of San Francisco, or be employed by or receive gifts or other compensation from such a candidate. For purposes of this Statement, a person is a candidate if that person has filed or is required to file a Candidate Intention Statement (FPPC Form 501) or a Statement of Intention to

Solicit and Accept Contributions under California Government Code section 85200 or San Francisco Campaign & Governmental Conduct Code section 1.122.

b. No employee or officer may act as a proponent of an initiative, referendum or recall petition if the measure would appear on the ballot in the City and County of San Francisco, or be employed by or receive gifts or other compensation from such a proponent.

c. No employee or officer may circulate an initiative, referendum, recall, nomination or other petition if the petition would be submitted to the Department of Elections, or be employed by or receive gifts or other compensation from such a petition circulator.

d. No employee or officer may use or permit the use of voter information or other elections data except as authorized by law.

e. No employee or officer may release or distribute voter information or other elections data to individuals or entities other than the Department of Elections except as authorized by law, or without following procedures specified by law or implemented by the Department. For example, no officer or employee may release voter information unless the individual or entity requesting the information has completed the required application.

f. No employee or officer may be employed by or receive compensation from individuals or entities that collect, analyze or report voter information or other elections data. These individuals or entities may include, but are not limited to, consultants and consulting firms, pollsters, research and policy institutes, and voting systems vendors. This rule is not intended to prohibit teaching or other activities associated with an academic institution. This prohibition does not apply to employment of or compensation received by an employee or officer's spouse or registered domestic partner.

g. No employee may report or comment on voter information or other elections data except as authorized by the Department of Elections. For example, an employee may not explain or predict voter turnout or offer opinions regarding elections processes except as authorized by the Department of Elections.

2. ACTIVITIES WITH EXCESSIVE TIME DEMANDS.

Neither the director nor any employee may engage in outside activity (regardless of whether the activity is compensated) that would cause the director or employee to be absent from his or her assignments on a regular basis, or otherwise require a time commitment that is demonstrated to interfere with the director or employee's performance of his or her City duties.

Example. An employee who works at the Department's front desk answering questions from the public wants to take time off every Tuesday and Thursday from 2:00 to 5:00 to coach soccer. Because the employee's duties require the employee to be at the Department's front desk during regular business hours, and because this outside activity would require the employee to be absent from the office during regular business hours on a regular basis, the director or his/her designee may, pursuant to subsection C, determine that the employee may not engage in this activity.

3. ACTIVITIES THAT ARE SUBJECT TO REVIEW BY THE DEPARTMENT

No employee or officer may engage in an outside activity (regardless of whether the activity is compensated) that is subject to the control, inspection, review, audit or enforcement of the Department. In addition to any activity permitted pursuant to subsection C, nothing in this subsection prohibits the following activities: appearing before one's own department or Elections Commission on behalf of oneself; filing or otherwise pursuing claims against the City on one's own behalf; or making a public records disclosure request pursuant to the Sunshine Ordinance or Public Records Act. The following activities are expressly prohibited by this section:

- a. Assistance with City Bids, RFQs and RFPs. No employee or officer may knowingly provide selective assistance (i.e., assistance that is not generally available to all competitors) to individuals or entities in a manner that confers a competitive advantage on a bidder or proposer who is competing for a City contract. Nothing in this Statement prohibits an employee or officer from providing general information about a bid for a City contract, a Department Request for Qualifications or Request for Proposals or corresponding application process that is available to any member of the public. Nothing in this Statement prohibits an employee or officer from speaking to or meeting with individual applicants regarding the individual's application, provided that such assistance is provided on an impartial basis to all applicants who request it.
- b. *No employee or officer may act as a proponent of an initiative, referendum or recall petition if the measure would appear on the ballot in the City and County of San Francisco. (This is also prohibited by section III (A)(1), above.)*
- c. *No employee or officer may circulate an initiative, referendum, recall, nomination or other petition if the petition would be submitted to the Department of Elections. (This is also prohibited by section III (A)(1), above.)*
- d. *No employee or officer may conduct or participate in voter registration drives or absentee voter drives not conducted by the Department of Elections.*
- e. *No employee may prepare or review petitions or other election documents that will be submitted to the Department of Elections, or verify signatures on petitions or other election documents that will be submitted to the Department of Elections for verification.*

B. RESTRICTIONS THAT APPLY TO EMPLOYEES IN SPECIFIED POSITIONS

In addition to the restrictions that apply to all employees and officers of the Department, and except as provided in subsection C of this section, the following activities are incompatible for individual employees holding specific positions.

[RESERVED.]

C. ADVANCE WRITTEN DETERMINATION

As set forth below, an employee of the Department or the director or member of the Elections Commission may seek an advance written determination whether a proposed outside activity that is not expressly prohibited by subsections A or B of this section, if any, conflicts with the mission of the Department, imposes excessive time demands, is subject to review by the Department, or is otherwise incompatible and therefore prohibited by section III of this

Statement. For the purposes of this section, an employee or other person seeking an advance written determination shall be called “the requestor”; the individual or entity that provides an advance written determination shall be called “the decision-maker.”

1. PURPOSE

This subsection permits an officer or employee to seek an advance written determination regarding his or her obligations under subsections A or B of this section. A written determination by the decision-maker that an activity is not incompatible under subsection A or B provides the requestor immunity from any subsequent enforcement action for a violation of this Statement if the material facts are as presented in the requestor’s written submission. A written determination cannot exempt the requestor from any applicable law or authorize the requestor to engage in an activity expressly prohibited by this Statement. If an individual has not requested or received an advance written determination as to whether an activity is incompatible with this Statement and engages in that activity, the individual will not be immune from any subsequent enforcement action brought pursuant to this Statement.

In addition to the advance written determination process set forth below, the San Francisco Charter also permits any person to seek a written opinion from the Ethics Commission with respect to that person’s duties under provisions of the Charter or any City ordinance relating to conflicts of interest and governmental ethics. Any person who acts in good faith on an opinion issued by the Commission and concurred in by the City Attorney and District Attorney is immune from criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. Nothing in this subsection precludes a person from requesting a written opinion from the Ethics Commission regarding that person’s duties under this Statement.

2. THE DECISION-MAKER

Decision-maker for request by an employee: An employee of the Department may seek an advance written determination from the director or his or her designee. The director or his or her designee will be deemed the decision-maker for the employee’s request.

Decision-maker for request by the director: The director may seek an advance written determination from his or her appointing authority. The appointing authority will be deemed the decision-maker for the director’s request.

Decision-maker for request by a member of the Commission: A member of the Commission may seek an advance written determination from his or her appointing authority or from his or her commission, or the Ethics Commission. The appointing authority, Commission or Ethics Commission will be deemed the decision-maker for the member’s request.

3. THE PROCESS

The requestor must provide, in writing, a description of the proposed activity and an explanation of why the activity is not incompatible under this Statement. The written material must describe the proposed activity in sufficient detail for the decision-maker to make a fully informed determination whether it is incompatible under this Statement.

When making a determination under this subsection, the decision-maker may consider any relevant factors including, but not limited to, the impact on the requestor’s ability to perform his or her job, the impact upon the Department as a whole, compliance with applicable laws and rules and the spirit and intent of this Statement. The decision-maker shall consider all

relevant written materials submitted by the requestor. The decision-maker shall also consider whether the written material provided by the requestor is sufficiently specific and detailed to enable the decision-maker to make a fully informed determination. The decision-maker may request additional information from the requestor if the decision-maker deems such information necessary. For an advance written determination request from an employee, if the director delegates the decision-making to a designee and if the designee determines that the proposed activity is incompatible under this Statement, the employee may appeal that determination to the director.

The decision-maker shall respond to the request by providing a written determination to the requestor by mail, email, personal delivery, or other reliable means. For a request by an employee, the decision-maker shall provide the determination within a reasonable period of time depending on the circumstances and the complexity of the request, but not later than 20 working days from the date of the request. If the decision-maker does not provide a written determination to the employee within 20 working days from the date of the employee's request, the decision-maker shall be deemed to have determined that the proposed activity does not violate this Statement.

The decision-maker may revoke the written determination at any time by written notice, based on changed facts or circumstances or other good cause.

4. DETERMINATIONS ARE PUBLIC RECORDS

To assure that these rules are enforced equally, requests for advance written determinations and written determinations, including approvals and denials, are public records to the extent permitted by law.

IV. RESTRICTIONS ON USE OF CITY RESOURCES, CITY WORK-PRODUCT AND PRESTIGE

A. USE OF CITY RESOURCES

No employee or officer may use City resources, including, without limitation, facilities, telephone, computer, copier, fax machine, e-mail, internet access, stationery and supplies, for any non-City purpose, including any political activity or personal purpose. No employee or officer may allow any other person to use City resources, including, without limitation, facilities, telephone, computer, copier, fax machine, e-mail, internet access, stationery and supplies, for any non-City purpose, including any political activity or personal purpose. Notwithstanding these general prohibitions, any incidental and minimal use of City resources does not constitute a violation of this section. Nothing in this subsection shall be interpreted or applied to interfere with, restrict or supersede any rights or entitlements of employees, recognized employee organizations, or their members under state law or regulation or pursuant to provisions of a collective bargaining agreement to use City facilities, equipment or resources, as defined herein.

Example. An employee or officer may use the telephone to make occasional calls to arrange medical appointments or speak with a child care provider, because this is an incidental and minimal use of City resources for a personal purpose.

Nothing in this Statement shall exempt any employee or officer from complying with more restrictive policies of the Department regarding use of City resources, including, without limitation, the Department's e-mail policy.

B. USE OF CITY WORK-PRODUCT

No employee or officer may, in exchange for anything of value and without appropriate authorization, sell, publish or otherwise use any materials that were prepared on City time or while using City facilities, property (including without limitation, intellectual property), equipment and/or materials. For the purpose of this prohibition, appropriate authorization includes authorization granted by law, including the Sunshine Ordinance, California Public Records Act, the Ralph M. Brown Act as well as whistleblower and improper government activities provisions, or by a supervisor of the officer or employee, including but not limited to the officer or employee's appointing authority. Nothing in this subsection shall be interpreted or applied to interfere with, restrict or supersede any rights or entitlements of employees, recognized employee organizations, or their members under state law or regulation or pursuant to provisions of a collective bargaining agreement to use public materials for collective bargaining agreement negotiations.

C. USE OF PRESTIGE OF THE OFFICE

No employee or officer may use his or her City title or designation in any communication for any private gain or advantage. The following activities are expressly prohibited by this section.

1. USING CITY BUSINESS CARDS

No employee or officer may use his or her City business cards for any purpose that may lead the recipient of the card to think that the employee or officer is acting in an official capacity when the employee or officer is not.

Example. An employee's friend is having a dispute with his new neighbor who is constructing a fence that the friend believes encroaches on his property. The friend invites the employee over to view the disputed fence. When the neighbor introduces herself, the employee should not hand the neighbor her business card while suggesting that she could help resolve the dispute. Use of a City business card under these circumstances might lead a member of the public to believe that the employee was acting in an official capacity.

Example. An employee is at a party and runs into an old friend who has just moved to town. The friend suggests meeting for dinner and asks how to get in touch with the employee to set up a meeting time. The employee hands the friend the employee's business card and says that he can be reached at the number on the card. Use of a City business card under these circumstances would not lead a member of the public to believe that the employee was acting in an official capacity. Nor would use of the telephone to set up a meeting time constitute a misuse of resources under subsection A, above.

2. USING CITY LETTERHEAD, CITY TITLE, OR E-MAIL

No employee or officer may use City letterhead, City title, City e-mail, or any other City resource, for any communication that may lead the recipient of the communication to think that the employee or officer is acting in an official capacity when the employee or officer is not. (Use of e-mail or letterhead in violation of this section could also violate subsection A of this section, which prohibits use of these resources for any non-City purpose.)

Example. An employee or officer is contesting a parking ticket. The employee or officer should not send a letter on City letterhead to the office that issued the ticket contesting the legal basis for the ticket.

3. HOLDING ONESELF OUT, WITHOUT AUTHORIZATION, AS A REPRESENTATIVE OF THE DEPARTMENT

No employee or officer may hold himself or herself out as a representative of the Department, or as an agent acting on behalf of the Department, unless authorized to do so.

Example. An employee who lives in San Francisco wants to attend a public meeting of a Commission that is considering a land use matter that will affect the employee's neighborhood. The employee may attend the meeting and speak during public comment, but should make clear that he is speaking in his private capacity and not as a representative of the Department.

V. PROHIBITION ON GIFTS FOR ASSISTANCE WITH CITY SERVICES

State and local law place monetary limits on the value of gifts an officer or employee may accept in a calendar year. (Political Reform Act, Gov't Code § 89503, C&GC Code §§ 3.1-101 and 3.216). This section imposes additional limits by prohibiting an officer or employee from accepting any gift that is given in exchange for doing the officer or employee's City job.

No employee or officer may receive or accept gifts from anyone other than the City for the performance of a specific service or act the employee or officer would be expected to render or perform in the regular course of his or her City duties; or for advice about the processes of the City directly related to the employee's or officer's duties and responsibilities, or the processes of the entity they serve.

Example. A member of the public who regularly works with and receives assistance from the Department owns season tickets to the Giants and sends a pair of tickets to an employee of the Department in appreciation for the employee's work. Because the gift is given for the performance of a service the employee is expected to perform in the regular course of City duties, the employee is not permitted to accept the tickets.

Example. A member of the public requests assistance in resolving an issue or complaint that is related to the City and County of San Francisco, but that does not directly involve the Department. The employee directs the member of the public to the appropriate department and officer to resolve the matter. The member of the public offers the employee a gift in appreciation for this assistance. The employee may not accept the gift, or anything of value from anyone other than the City, for providing this kind of assistance with City services.

As used in this statement, the term gift has the same meaning as under the Political Reform Act, including the Act's exceptions to the gift limit. (See Gov't Code §§ 82028, 89503; 2 Cal. Code Regs. §§ 18940-18950.4.) For example, under the Act, a gift that, within 30 days of receipt, is returned, or donated by the employee or officer to a 501(c)(3) organization or federal, state or local government without the employee or officer taking a tax deduction for the donation, will not be deemed to have been accepted. In addition to the exceptions contained in the Act, nothing in this Statement shall preclude an employee's receipt of a bona fide award, or free admission to a testimonial dinner or similar event, to recognize exceptional

service by that employee, and which is not provided in return for the rendering of service in a particular matter. Such awards are subject to the limitation on gifts imposed by the Political Reform Act and local law.

In addition, the following gifts are de minimis and therefore exempt from the restrictions on gifts imposed by section V of this Statement:

- i. Gifts, other than cash, with an aggregate value of \$25 or less per occasion; and
- ii. gifts such as food and drink, without regard to value, to be shared in the office among employees or officers.

Example. A member of the public who regularly works with and receives assistance from the Department sends a \$15 basket of fruit to an employee as a holiday gift. Although the fruit may in fact be offered in exchange for performing services that the employee is expected to perform in the regular course of City duties, the employee may accept the fruit because the value is de minimis. (Because the reporting requirement is cumulative, an employee may be required to report even de minimis gifts on his or her Statement of Economic Interests if, over the course of a year, the gifts equal or exceed \$50.)

Example. A member of the public who regularly works with and receives assistance from the Department sends a \$150 basket of fruit to the Department as a holiday gift. Although the fruit may in fact be offered in exchange for performing services that the Department is expected to perform in the regular course of City duties, the Department may accept the fruit basket because it is a gift to the office to be shared among employees and officers.

VI. AMENDMENT OF STATEMENT

Once a Statement of Incompatible Activities is approved by the Ethics Commission, the Department may, subject to the approval of the Ethics Commission, amend the Statement. C&GC Code § 3.218(b). In addition, the Ethics Commission may at any time amend the Statement on its own initiative. No statement of incompatible activities or any amendment thereto shall become operative until the City and County of San Francisco has satisfied the meet and confer requirements of State law and the collective bargaining agreement.

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Rule 114

Appointments

Article IX: Director of Elections

Applicability: Article IX, Rule 114, shall apply to the Director of Elections as provided for in Charter Section 13.104.

Sec. 114.46 Purpose

The purpose of Article IX, Rule 114, shall be to reflect the authority of the Civil Service Commission and the Elections Commission as well as the employment rights of the Director of Elections as set forth in Section 13.104 and Article X of the Charter of the City and County of San Francisco. A Rule on the position of Director of Elections is in order because of the unique nature of the position under the Charter.

Sec. 114.47 Requirement for a Personnel Requisition and Job Announcement

114.47.1 Whenever the position of Director of Elections is to be filled, the Elections Commission shall issue a personnel requisition in the prescribed format noting that appointment to the position shall be in accordance with Charter Section 13.104 and Civil Service Commission Rule 114, Article IX.

114.47.2 The Department of Human Resources shall issue a job announcement which shall be posted for a minimum of ten (10) days and shall include a position description, qualifications, dates applications will be accepted, relevant provisions in Charter Section 13.104 and other relevant job-related information.

Sec. 114.48 List of Qualified Applicants

114.48.1 The names of the candidates who meet the requirements of the job announcement shall be placed on the list of qualified applicants in the order of their scores. There must be a minimum of three (3) qualified applicants available for selection. Approval of the Civil Service Commission shall be required to proceed should there be fewer than three (3) qualified applicants.

114.48.2 Should the Director of Elections position become vacant within twenty-four (24) months of appointment, the Elections Commission may elect to appoint a successor from the current list of qualified applicants provided a minimum of three (3) persons remain available on the list, except that approval to appoint from this list may be obtained from the Civil Service Commission should there be fewer than three (3) persons available.

Sec. 114.49 Selection of the Director of Elections

114.49.1 In accordance with Charter Section 13.104, no less than thirty (30) days before the expiration of the Director's term, the Elections Commission shall select a Director for the next term. The appointment shall be effective in accordance with Rule 114.51- Appointment Date.

114.49.2 Selection of the Director of Elections from the list of qualified applicants shall be based on merit and fitness without regard to relationship, race, religion, sex, national origin, ethnicity, age, disability, gender identity, political affiliation, sexual

orientation, ancestry, marital status, color, medical condition or other non-merit factors or otherwise prohibited nepotism or favoritism.

114.49.3 The Elections Commission shall establish a non-discriminatory selection process which may include scheduling each interested person from the list of qualified applicants for interview, conducting interviews by a diverse panel, asking job-related questions, and maintaining documentation of selection criteria.

114.49.4 The Elections Commission shall utilize appropriate job-related, non-discriminatory screening devices which may include but not be limited to resumes, updated applications, skills checklists, writing exercises, work samples, and performance reviews.

114.49.5 The Elections Commission shall notify the persons on the list of qualified applicants of the available position and selection process. The Notice shall include a minimum response period of five (5) business days and ten (10) business days in the event supplemental information is required.

Sec. 114.50 Appointment of the Director of Elections

114.50.1 Appointment to the position of Director of Elections shall be made pursuant exclusively to the provisions of Charter Section 13.104 and Civil Service Commission Rule 114, Article IX. Civil Service Commission Rules covering a civil service employee in another position in the same or different class, including but not limited to those Rules on Status and Layoff, shall not apply to appointment to the position of Director of Elections. Thus, by way of example but not limitation, a permanent civil service employee with greater seniority shall not have the right or preference for appointment to a vacant Director of Elections position nor the right to displace the incumbent Director of Elections with less seniority.

114.50.2 The Director of Elections shall be appointed permanent civil service by the Elections Commission from a list of qualified applicants for a term of five (5) years. The term shall commence upon the appointment date of the person selected.

114.50.3 The record of appointment shall be on the prescribed form noting that the appointment has been made in accordance with Charter Section 13.104 and Civil Service Commission Rule 114, Article IX.

114.50.4 Pending the appointment of the Director of Elections, the Elections Commission may make a temporary out-of-class assignment or a provisional appointment. Temporary out-of-class assignment or provisional appointment shall not be made to bypass the established selection procedures provided in this Rule. Temporary out-of-class assignment or provisional appointment may be approved while an appointment through the regularly established procedures is pending and shall be limited to ninety (90) days. Any extension beyond the ninety (90) days must be approved by the Civil Service Commission in increments of no more than sixty (60) days apiece. The selection procedures provided in this Rule shall be effectuated expeditiously.

Sec. 114.51 Appointment Date

114.51.1 In accordance with Charter Section 13.104, no less than thirty (30) days before the expiration of the Director of Election's five (5)-year term, the Elections Commission shall appoint a Director of Elections for the next term. In this circumstance, the appointment date shall be the date on which the person starts work in a permanent

civil service capacity as Director of Elections, which date may be no sooner than the first day following the last day of the term that is coming to an end.

114.51.2 Except as stated in Rule 114.51.4, if an appointment of the Director of Elections is made in some circumstance other than the impending completion of a Director of Election's five (5)-year term, the appointment date shall be the date on which the person starts work in a permanent civil service capacity as Director of Elections.

114.51.3 The Elections Commission and the Department of Human Resources shall expedite the appointment processing necessary to effectuate the appointment of the Director of Elections.

114.51.4 For the Director of Elections who is in office as of November 3, 2003, the appointment date shall be the date on which the Elections Commission acted to select the person to be Director of Elections in a permanent civil service capacity.

Sec. 114.52 Probationary Period

114.52.1 The final phase of the selection process shall include a probationary period that conforms to the requirements of Rule 117 – Probationary Period, except that Rules on the Voluntary Resumption of the Probationary Period (Rule 117.8) shall not apply. The Elections Commission may release the Director of Elections at anytime during the probationary period. The decision of the Elections Commission to release the Director of Elections during the probationary period shall be final.

114.52.2 In accordance with Rule 114.53.4, appointment of the incumbent to a new term shall not require a new probationary period.

Sec. 114.53 Renewal of Term

114.53.1 In accordance with Charter Section 13.104, no less than thirty (30) days before the expiration of the Director's term, the Elections Commission shall select a Director for the next term. The Elections Commission may appoint the incumbent Director of Elections for an additional five (5)-year term.

114.53.2 The Elections Commission may in its discretion renew the incumbent's term, without engaging in the competitive selection process specified in this Rule.

114.53.3 In the alternative, the Elections Commission may in its discretion again engage in the competitive selection process specified in this Rule, and renew the incumbent's term in the event the incumbent successfully competes in the process.

114.53.4 In accordance with Rule 114.52.2, renewal of the incumbent's term shall not require a new probationary period.

Sec. 114.54 Employment Rights

114.54.1 Notwithstanding the designation of the Director of Elections as a permanent civil service appointment, and notwithstanding the rights that normally accompany such a designation, upon the end of the Director's term as defined in Rule 114.58.1, there shall be no accrued right to return to the position or receive special consideration for or claim to the position. Thus, a former Director has no special claim to return to the position or right to receive special consideration for the position. This provision shall not preclude a

former Director from applying for the position or preclude consideration of experience as Director in evaluating candidates for the position.

114.54.2 Except as stated herein, this Rule 114, Article IX is not intended to interfere with the ongoing relationship between the Elections Commission and the Director of Elections or undermine the independence of the Elections Commission as established by the City Charter. Except as stated herein, if the application of a Civil Service Commission Rule to the Director would seriously undermine the authority of the Elections Commission over the Director, that Rule shall not apply. By way of example but not limitation, notwithstanding the designation of the Director of Elections as a permanent civil service appointment, for purposes of Rule 120 (Leaves of Absence), the Director shall have only those leave rights customarily afforded department heads.

114.54.3 The Director of Elections is both an officer and employee and shall be subject to those provisions in Rule 118 (Conflict of Interest) governing officers or employees. Further, the Director shall be subject to the provisions of Rule 118.2 governing part-time employment. However, in the case of the Director, the powers vested in the Human Resources Director under Rule 118.2 shall be vested exclusively in the Elections Commission, with no power of appeal to the Human Resources Director or the Civil Service Commission.

114.54.4 This Rule 114, Article IX shall not abrogate those employment rights customarily afforded by federal, state, and local law to department heads.

Sec. 114.55 Release from Term Appointment

Should the Elections Commission decide not to renew the incumbent's term, the Director of Elections shall be released. The decision of the Elections Commission to renew or not renew the term appointment shall be final.

Sec. 114.56 Removal for Cause

114.56.1 In accordance with Charter Section 13.104, following the successful completion of the probationary period and during the term appointment, the Elections Commission may remove the Director of Elections for cause upon written charges and following a hearing. The Elections Commission shall present the written charges to the Director of Elections no less than thirty (30) days before the scheduled hearing. The hearing shall be held not less than thirty (30) days after notice of charges, unless the Director of Elections requests an earlier hearing date and the Elections Commission agrees to the request.

114.56.2 The hearing shall be held no later than forty-five (45) days after notice of charges unless the Director of Elections and the Elections Commission agree to an extension, or in the absence of mutual agreement, either party seeks and obtains the approval of the Civil Service Commission for an extension. The Elections Commission shall render its decision no later than ten (10) days following the conclusion of the hearing.

114.56.3 Pending a hearing and decision of the Elections Commission to remove the Director of Elections for conduct involving misappropriation of public funds or property, misuse or destruction of public property, drug addiction or habitual intemperance, mistreatment of persons, immorality, acts which would constitute a felony or misdemeanor involving moral turpitude, or acts which present an immediate danger to

the public health and safety, the Elections Commission may place the Director of Elections on unpaid administrative leave. Pending the hearing and decision of the Elections Commission on the removal of the Director of Elections, the Elections Commission may make a temporary out-of-class assignment or provisional appointment.

114.56.4 For removal on charges other than those listed in Section 114.56.3, the incumbent shall continue to occupy the position of Director of Elections until the completion of the hearing and decision by the Elections Commission.

Sec. 114.57 Appeal to the Civil Service Commission following Removal for Cause

114.57.1 In the event of removal for cause as set forth in this Rule and Charter Section 13.104, the Director of Elections shall have the right of appeal to the Civil Service Commission.

114.57.2 A notice of termination from the Elections Commission to the Director of Elections detailing the specific reason(s) for the termination, shall serve as official notice of such termination.

114.57.3 The notice of termination must include the following information:

- 1) The Director of Elections has the right to a hearing before the Civil Service Commission provided that a request for hearing is made in writing and is received by the Executive Officer within twenty (20) calendar days from the date of removal from the term appointment or from the date of mailing of the Notice of Termination whichever is later. In the event the 20th day falls on a non-business day, the deadline shall be extended to the close of business on the first (1st) business day following the 20th day.
- 2) The stated reason(s) for the termination must be enumerated. Records of warnings, reprimands and previous suspensions, if applicable, must be attached.
- 3) Recommendation by the Elections Commission on future employment restrictions.

114.57.4 Upon receipt of an appeal in the Civil Service Commission office, the Executive Officer shall place the matter on the next Regular or Special meeting agenda consistent with applicable public meeting laws to determine time frames for hearing the appeal.

114.57.5 The hearing of the appeal must be scheduled no later than sixty (60) days from the date of receipt of the appeal. Extension beyond sixty (60) days shall be at the discretion of the Civil Service Commission, based on such factors as whether the appellant and the Elections Commission have agreed to the extension; whether an extension is consistent with the purposes underlying Charter Section 13.104 and related Charter provisions; and whether an extension would serve the interests of justice.

114.57.6 Unless the appeal clearly and expressly states otherwise, it shall be treated by the Civil Service Commission as an appeal of both the decision of the Elections Commission to remove the Director of Elections and the recommendation of the Elections Commission on future employment restrictions.

If the appeal is clearly and expressly limited to only the recommendation of the Elections Commission as to future employment restrictions, the Civil Service Commission shall take one or more of the following actions:

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- 1) Cancel any current examination and eligibility status;
- 2) Restrict future employment as it deems appropriate;
- 3) Return the person to the permanent civil service classification immediately held prior to acceptance of the position of Director of Elections. If necessary, layoff in the affected classes shall follow.

114.57.7 In accordance with Charter Section 13.104, on appeal of the decision of the Elections Commission to remove the Director of Elections, the Civil Service Commission shall be limited to consideration of the record before the Elections Commission; however, the Civil Service Commission may independently evaluate and weigh evidence and may in its discretion consider evidence proffered to the Elections Commission that the Elections Commission excluded and may in its discretion exclude evidence that the Elections Commission considered. In its discretion, and depending on the facts of a particular case, the Civil Service Commission may consider the presence or absence of contemporaneous documentation by the Elections Commission of facts supporting the removal for cause, and/or the presence or absence of documentation of such facts in a regular performance appraisal of the Director, as probative of the validity of the removal for cause.

114.57.8 With respect to the decision of the Elections Commission to remove the Director of Elections, the Civil Service Commission shall either:

- 1) Grant the appeal, vacate the decision of the Elections Commission, and order immediate reinstatement of the person to the position of Director of Elections. In reinstating the person, the Civil Service Commission may order payment of salary to the person for the period of the removal; or.
- 2) Deny the appeal, uphold the decision of the Elections Commission, and declare the person dismissed from the position of Director of Elections. In denying the appeal, the Civil Service Commission may return the person to the permanent civil service classification immediately held prior to acceptance of the position of Director of Elections. If necessary, layoff in the affected classes shall follow.

a) If the Civil Service Commission upholds the decision of the Elections Commission to remove the Director of Elections, the appellant may elect to withdraw the appeal on future employment restrictions.

b) Should the appellant not withdraw the appeal on future employment restrictions the Civil Service Commission may adopt the recommendations of the Elections Commission on future employment restrictions, cancel any current examination and eligibility status, or restrict future employment as it deems appropriate.

114.57.9 The decision of the Civil Service Commission on the appeal shall be final

Sec. 114.58 End of Term

114.58.1 The term of the Director of Elections shall end upon release during the probationary period, removal for cause, death, appointment to another position in the City service, including a position in the classified service at the San Francisco Community College District or the San Francisco Unified School District, resignation or completion of the five (5)-year term without renewal of the appointment for another term. In the case of removal for cause, the term shall end:

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1) If no appeal on the decision of the Elections Commission to remove the Director of Elections is filed, upon completion of the time period for filing an appeal with the Civil Service Commission as specified in this Rule; or,

2) If an appeal on the decision of the Elections Commission to remove the Director of Elections is filed within the time period for filing an appeal, upon the hearing and decision of the appeal by the Civil Service Commission, if the Civil Service Commission upholds the removal for cause.

114.58.2 In the interim, between removal for cause by the Elections Commission and the conclusion of the appeal process on the decision to remove the Director of Elections, the Elections Commission may make a temporary out-of-class assignment or provisional appointment while the appeal process is underway.

13-7

City and County of San Francisco
Elections Commission
Approved: July 18, 2007
Minutes of the Retreat and Special Meeting
City Hall Room 034
June 20, 2007

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President Meek called the meeting to order at 1:19 pm.

PRESENT: Commissioners Gerard Gleason, Richard Matthews, Tajel Shah, Victor Hwang, Winnie Yu, Jennifer Meek, Deputy City Attorneys Ann O'Leary and Jon Givner. Commissioner Arnold Townsend arrived at 1:26 pm.

ANNOUNCEMENTS:

President Meek announced that Item #15, the possible reappointment of the current Director of Elections, would not be an action item due to the lack of the wording "and possible action" in the agenda description. Commission Secretary Shirley Rodriques announced that the first meeting of the Commission in July would be on the Wednesday that is the Fourth of July Holiday. Therefore that meeting of the Budget and Oversight of Public Elections Committee would be cancelled, and if members wanted to hold a meeting on another day, they should let her know and a meeting room would be arranged.

Overview of the Department of Elections

1. Election Day Procedures Overview: Commissioner Gleason made this presentation and pointed out "it isn't Election Day any more, it's really Election Season." With 50% of the ballots arriving absentee voted, there is a lot of work that must be accomplished well before the actual day of an election. The Commissioner reminded everyone that the next four elections will be happening in quick succession: this coming November, then February, then June and then again in November. The DoE is fortunate to have the same Director and most of the managers who handled the unprecedented Recall Election of October of 2003, then the regular election that came in November and the subsequent run-off election in December followed by a primary in February. All activities and duties regarding elections by the Department are viewable to the public, and Commissioner Gleason recommended that the new members of the Commission make arrangements to observe the activities. (A copy of the Commissioner's points for his presentation is attached to these minutes).

Commissioner Gleason said that, in the past, he considered the Poll Worker portion of the election day equation to be the weak link. However, he was impressed with the results of the test that was sent to all Poll Workers regarding their knowledge of election day laws and procedures in which 50% of those returning the test got 100% of the questions correct. Those missing one or more of the questions had to attend a three-hour training. (A copy of the test is attached to these minutes).

Public Comment. Brent Turner said that he had concerns regarding the Logic and Accuracy testing because of the lack of review of the equipment's source code. Alec

Bash said that he wasn't comfortable with the voting equipment arriving days before election day to the voting sites where he felt the machines could be "hacked" or tampered. *Chandra Friese* presented the Commission with what she described as a short dvd titled "We're Counting the Votes" that demonstrates how the state of New Hampshire hand counts its votes. Additionally, Ms. Friese suggested that the San Francisco League of Women Voters would assist the City should a hand count be necessary this November.

The Retreat recessed for the Department of Elections walk through at 1:40 pm.

The Retreat resumed at 3:25 pm.

Commissioner Arnold Townsend left the meeting at 3:30 pm and returned at 5:09 pm.

History of the Commission.

Commissioner Richard Matthews said that the San Francisco Charter of 1900 provided for an Elections Commission, it had five members, was called the Board of Election Commissioners and it structured its membership requirements to minimized political influence. Two members were from each of the two largest political parties from the previous Presidential election. The fifth member was from the party with the third most votes, and if there were no third party the Mayor would appoint the fifth Commissioner.

Preferential Voting, allowed in the Charter in the early 20th Century, was very much like Ranked Choice Voting which was adopted a few years ago in San Francisco.

In 1923 there was litigation regarding voting machines, and currently voting machines and their possible fallibility are under suspicion by some members of the public and City officials.

In 1927, in a dispute between the Board of Elections and the Board of Supervisors, the State Supreme Court limited the Board of Elections powers to fix salaries and other administrative powers to those within the general budget and fiscal provisions of the Charter.

A new Charter passed the voters and went into effect in 1932 which created a Chief Administrative Officer who had as part of his duty "the conduct, management and control of the registration of voters, the holding of elections, and of all matters pertaining to elections in San Francisco shall be vested exclusively in the registrar of voters". This Charter also eliminated the Board of Election Commissioners.

In 1976 the amendment to the Charter clarified the responsibilities of the Registrar of Voters and the Chief Administrative Officer and said that all matters of voter registration are vested exclusively in the Registrar.

Then in November of 1995, voters adopted a new Charter which was a large restructured one. In it the Registrar of Voters was replaced with a Director of Elections "vested exclusively with the conduct and management of voter registration and matters pertaining to elections in the City and County". This is Section 13.104 of the 1996 S. F. Charter. This Charter eliminated the Chief Administrative Officer, replacing that position with the City Administrator who was responsible for appointment of the Director of Elections.

In November of 2002, voters passed Proposition E that became Charter Section 13.103.5 which created the current Elections Commission – seven members appointed by seven different citywide elected bodies or officials. The Charter gave the Commission the responsibility of setting general policies for the Department of Elections and for the proper administration of the general practices of the Department of Elections.

Overview of and Discussion of Commissioner Roles, Duties, and Responsibilities.
(This discussion began at 3:40 pm and ended at 5:00 pm.)

Deputy City Attorney Givner gave a broad overview of the responsibilities of the Commission and the Director. The Commission's responsibilities come from two sections of the Charter: Article IV – addresses the role, authority and restriction of all City Commissions appointed by the Mayor, and Article XIII that specifically addresses Elections and what this Commission's responsibilities and duties are. Many of the provisions that apply to all Commissions apply as well to the Elections Commission to the extent that there is a conflict, then Article XIII is the authority. The role of the Commission breaks down into six categories: (1) setting general policies for the Department of Elections, (2) approving a written election plan prior to each election and assessing the success of the plan after each election, (3) approving the budget that is submitted by the Director, (4) conducting investigations and hearings in any aspect of the operations within the Commission's jurisdiction, (5) appointing and removal of the Director, and appointing a secretary and overseeing that secretary's work, (6) holding meetings and acting as a conduit for the public to speak to the Department. The Director is responsible for everything else in elections. The Charter says that the Director is responsible for the day-to-day operations, for administration and management of the Department, including all personnel matters, recommending legislation to the Board of Supervisors, purchasing, contracting, handling the conduct of elections.

Adoption and enforcement of Policies for the Commission. Deputy City Attorney Givner reminded the Commission that the policies adopted by the Commission do not have the force of law, but the Commission has the power to enforce them through its oversight of the Director in his/her performance review.

Commission's role in contracts. Deputy City Attorney O'Leary said that the Charter makes it clear that the Commission does not have the expressed authority to award contracts. The Commission does have a role: to hold hearings and pass resolutions. The hearings can cover issues related to the contract such as the type of voting system for which the Department should contract or the process the Director should use to select a voting system. The Director has the authority to make the purchase and sign the contract on behalf of the Department and follow the rules of the Administrative Code in terms of going to the Board for approval of a contract over \$10M.

Deputy City Attorney O'Leary gave a brief history of the current equipment contract. Currently the City has a contract with ES&S (Elections Systems and Software) that was competitively bid in 1998. The requirement was that the system would consist of an optical scan or touch screen and direct electronic reporting system. The contract was for five years – from January 15, 2000 to January 15, 2005. The contract was for 682 optical scan machines (these are in the precincts on election day), and two high-speed optical scanning machines to process the ballots at City Hall. In 2005, the DoE put out a new RFP (request for proposal) for a new voting system. Because this would take some

time, ES&S's contract was extended. Since then, the contract has been extended THREE times.

The first time was for one year – to January 2006, next until another year through July 31, 2007, and just recently to get us through this coming November's election.

The concern that the City Attorney has is that you cannot extend a contract forever because the City's sole source provider rules may be violated. All City contracts must be competitively bid.

In March of 2005, the Department issued an RFP and Sequoia Voting Systems won. Negotiations for the contract began in the summer of 2005, and were completed in Spring 2006. As the contract was being completed, there was concern that Sequoia was not certified. This is why the ES&S contract was extended to get the City through the November 2006 election. Contract negotiations continued, and an agreement arrived at the end of 2006. However, that contract was for an amount over \$10M, and therefore had to be approved by the Board. The Board of Supervisors Budget Committee had several concerns regarding the contract, such as: why purchase new machines so soon after purchasing the AutoMark machines (these were purchased for disabled voters), and concern about "open source" voting. There was no requirement in the RFP for "open source". The City, therefore, could not put an additional requirement upon the contractor after the RFP was closed. However, the Board did not act upon approval of the \$10M Sequoia contract. Instead, the Board voted to approve an extension of the ES&S contract.

Where does this leave the contract and where does this leave the Commission? At this point the Department is continuing negotiations with Sequoia. If at some point the Director chooses to end the negotiations, because there is no agreement, the option is to open up a competitive solicitation process. The Commission can hold hearings on whether the Department should have a new voting system, the type of voting system the City should purchase and the process by which the City should purchase a system.

Communication with the Board of Supervisors. Deputy City Attorney Givner said that the Commission could make a resolution after holding hearings, or it could make a report to the Board of Supervisors with recommendations.

Reviewing the Performance of the Director and the Secretary. The Commission has the power to review the performance of the Director and the Commission Secretary. Mr. Givner suggested that the Commission adopt an amendment to the Bylaws that states that it will review the Secretary every December and the Director every April (for example), and describe a formal process for these reviews.

Approving and Assessing the Election Plan. Deputy City Attorney O'Leary said that the Commission has the responsibility to adopt and improve the Election Plan for each election. The plan should include written plans prior to each election that are submitted by the Director detailing the policies, procedures and personnel that will be used to conduct the election as well as an assessment of how well the plans succeeded in conducting a free, fair and functional election.

How to make the assessment has been a concern of the Commission. This is a policy decision. One consideration is observation of the activities at the Central Command Center at City Hall on election day where there is a projection of the computer screen which shows calls from poll workers who have problems and concerns emerging at the

precincts. Once these complaints are resolved, the screen shows how and when they are cleared.

Budget Process. Deputy City Attorney O'Leary added that the Commission has approval of the Department's Budget pending final approval of the Board of Supervisors.

Does the Commission have the authority to reject the budget? The Commission can use its power to not approve the budget but the Commission cannot make specific changes to the budget. The changes in the budget are within the Director's purview of running the day-to-day operations of the Department. The Commission can make the Director aware of any concerns it has with the budget.

What role can the Commission play regarding the Board of Supervisors when it approves the budget? The Commission can go to the Board and lobby for the Department's budget. Other Commissions usually give the Chair of the Commission's budget committee the authority to go to the Board of Supervisors to advocate on behalf of their Department.

Roles and Responsibility of Individual Commissioners. Deputy City Attorney O'Leary explained that in Article IV there is specific information about how a Commission may deal with the administrative affairs of a department. The Commission must work with the department through that department's head. A Commissioner may represent the Commission at a public body, like the Board of Supervisors, only after that Commissioner has been requested to do so by the Commission.

What is a Commissioner's role on election day? Deputy City Attorney O'Leary gave an example of a Commissioner going to a polling place. She explained that the Commissioner cannot direct pollworkers to take any actions, because that Commissioner would not be working through the Director, a violation of the Charter. There is no legal conflict of interest for a Commissioner to work as a pollworker, as some members have done in the past. However, working in that capacity could put the member in a "slightly awkward" position because as a pollworker the Commissioner is a subordinate to the Director of Elections (while at the same time you sit on the Commission that oversees the Director of Elections). She said that this is not a "clear legal conflict of interest", but it certainly could cause problems that should be considered."

Commissioners giving written reports. Deputy City Attorney O'Leary said these reports become part of the public record, and should be done with the caveat that these are the observations of that particular Commissioner (if it's a report of election day observations), and are not meant to represent what "holistically was happening on election day".

Commissioner Matthews said that Section 13.104.5 of the Charter specifically envisioned that Commissioners might work on election day, and says: "except as provided below, no city employee or officer other than the Director of Elections and appointee of the Director of Elections or a member of the Elections Commission may in any capacity perform any function relating to the conduct of an election."

Deputy City Attorney O'Leary explained that prior to the provision of the Charter mentioned above, city employees were generally involved in elections and the concern was that if those employees worked for an individual or in an office where a person was

running on the ballot of that election, could feel that they needed to work on the election or might feel unnecessarily influenced to work on the election, or unnecessarily have influence that they shouldn't have. The Charter was amended to clear this up. The Elections Commission has the purview of elections, and the Charter envisioned that the Commission have this authority. Deputy City Attorney O'Leary said that she wanted the Commission to think about how it wanted to use that authority and working with the Director so that he knows what each Commissioner will be doing. She said she wanted to raise the question to the Commission of being a subordinate and an overseer to the Director.

Commissioner Gleason expressed his enjoyment working as a pollworker and explained that his rationale was that "once you're sworn in as the precinct board, the Department of Elections assists you in running the precinct. You are not working subordinate, unless you are removed...they have the power to remove you as the precinct board. From 7 am until 8 pm (on election day) you are an independent body." Deputy City Attorney O'Leary explained that "you are not an independent body. The Director of Elections has the right to remove any person who is working for the elections on that day. When you go as a pollworker you are not a member of the Commission, you are a pollworker for that day. This makes it clear what your authority is on that day." Commissioner Gleason said that this is exactly how he views his role on election day when he's working at the polls. Deputy City Attorney O'Leary said that she was not making a legal opinion regarding whether Commission members should work at the polls on election day, but was offering food for thought.

Deputy City Attorney Givner added that due to the Charter amendment, one of the powers of the Elections Commission is to ask the Board of Supervisors, at each election, to waive the restriction of City workers working on the election when the Department of Elections needs help.

Political Activities of Commissioners. Deputy City Attorney Givner explained that the Charter is very clear about the restrictions on Commissioners. Members cannot serve as officers of political parties, hold public office in this County, be a registered campaign consultant, lobbyist, or be employed by or receive gifts from a campaign consultant or lobbyist, not participate in campaign activities supporting or opposing a candidate or ballot measure, except a candidate for state and federal office. Commissioners should not make donations to local political campaigns.

Incompatible Activities. Deputy City Attorney Givner explained that Section 3.218 of the Campaign and Governmental Conduct Code requires that every City Department, Board and Commission adopt a section of incompatible activities that sets forth the actions that employees and officers of the department cannot do because they are incompatible with holding a position in that department. The Ethics Commission has the authority to formally approve the statements and does so for 65 departments. Once these statements of incompatible activities are agreed upon and adopted by the Ethics Commission, and any employee or Commissioner violates this Code, the Ethics Commission can launch an investigation that may lead to formal charges, a \$5000 fine for every violation, and the City Attorney's Office can bring civil action against the violator and the District Attorney may bring criminal charges. This law will be in effect when all Departments have agreed to conflicts within each, and the Ethics Commission has received those statements. Deputy City Attorney Givner said that he expects this to be the case by the end of 2007.

Can a Commissioner sign a petition? Can a Commissioner attend a fundraiser at which he/she has made no monetary contribution? – The Deputy City Attorneys will answer this after further research.

Public Comment. *Alec Bash* said that it was common for Commissions to pass resolutions supporting documents their departments send to the Board of Supervisors. *Sacha Ielmorini* suggested that the Commission mention the public's tenacity at meetings regarding the issue of voting equipment if the Commission sends a resolution to the Board of Supervisors, and that if the resolution is not unanimous, it reports which Commissioners were in favor and who opposed it. *Tim Meyer* said that he senses frustration on the part of some Commissioners regarding their power to direct the head of the Elections Department. He said that the Commission can educate itself by listening to the information attendees present at meetings. *Brent Turner* said that the Commission has "a tremendous amount of power" and that the issues he is concerned about are policy issues and not the day-to-day department matters about which the Commission has no power.

9. Discussion of Ideas for Improving the Commission and Future Plans/Projects.

President Meek asked that the members consider the following items for future discussion at upcoming meetings: (a) Getting the Election Plan reconfigured, (b) Better methods of evaluating the Election Plan, a documented criteria, (c) Implementing an evaluation process for the Director and Secretary and conducting it annually, (d) Researching and issuing more resolutions.

Commissioner Townsend, regarding doing an evaluation on the Director or having input regarding activities of the Department, said "when things are running and working smoothly, it's a testament that you have enough sense to see it and let it go."

BREAK at 5:17 pm
RETURN at 5:44 pm

Commissioner Victor Hwang left during the break to attend personal business.

Overview of Appointment Procedures for the Director of Elections. Deputy City Attorney Givner reviewed the Charter and Civil Service Commission Rules regarding the appointment of the Director. These are included in the packet for this Retreat. The Commission, working with the Department of Human Resources, sets the criteria and qualifications for selection of the Director. The estimated time for the process is three months. The decision to re-appoint, or to do a search for a new Director must be made no later than 30 days before the end of the current Director's five year term of office.

Discussion and possible action whether to hold Closed Session.

Commissioner Townsend MOVED and Commissioner Yu SECONDED this item. The Roll Call vote was UNANIMOUS.

Public Comment. *Brent Turner* said that if the Commission decides to seek candidates for the position of Director of Elections after the five year term of the current Director, he and others in the audience would like the opportunity to suggest candidates.

This meeting went into CLOSED SESSION at 5:55 pm. Present were: Commissioners

Gleason, Townsend, Yu, Hwang, Matthews, Shah and Meek; Deputy City Attorneys Givner and O'Leary, Director Arntz, and Commission Secretary Rodriques.
Returned to OPEN SESSION at 6:20 pm.

Discussion and possible action regarding disclosure of Closed Session.

Commissioner Matthews MOVED and Commissioner Shah SECONDED non-disclosure of the contents of the Closed Session.

The Roll Call vote was UNANIMOUS. President Meek disclosed that no action was taken in the Closed Session.

Director's Report. Director Arntz thanked the Commissioners for joining the Department tour that was part of this meeting's agenda. The **Outreach Division** position opening received applications from two candidates. An announcement regarding the appointment will be made after the test scoring is completed and an offer is accepted by the winning candidate. The **update regarding securing a voting system for 2007 – 2008** is that Elections Systems and Software (ES&S) has not yet submitted its application for certification to the Secretary of State (SOS). The SOS has said that July 1, 2007 is the deadline for submission. Although the Board of Supervisors approved the contract extension to use ES&S back in April, that contract is not complete because insurance and bond certificates from the company have not be sent to the Department. If ES&S is not approved, the Director said he wants to ask the Board to approve the Sequoia Voting Systems contract or to fund a ballot hand count. If the answer is to use Sequoia, the first choices in the Ranked Choice Voting (RCV) contests can be counted by the equipment (this would be the same for ES&S). However, there would need to be a hand count for those contests where there is not a majority winner. The Director reminded the Commission that the Sequoia contract states that the company pays for the hand count.

Commissioner Shah asked if the Director could limit the elections to be covered by the Sequoia contract so that approval could be expedited. The Director said that this could be done.

Director Arntz announced that the supplemental budget has passed the Board of Supervisors (\$900,000+). The Director hasn't received the final draft of the Department's fiscal budget from the Board's Budget Analyst. Commissioner Shah asked the Director to provide, in layman terms, the positions and facilities that the Mayor's Office did not fund. The Commissioner said she wants to discuss why those were not funded by the Mayor's Office. Director Arntz said that he will request, in writing from the Mayor's Office, why the facilities he has requested have not be funded.

Commissioner Townsend suggested that the Commission request this indemnification at its next full meeting.

Commissioner Matthews suggested that the 2002-2003 Grand Jury Report, which is still viable, be used because it specifically called for the consolidation of DoE sites. There is a new Grand Jury about to begin, and this would be the ideal time to let those members know that the preceding report's findings and recommendations have been ignored.

Public Comment. *Sacha Ielmorini* asked if Sequoia would still be paying for the hand count if they missed the submittal deadline for testing. *Brent Turner* said that the City should issue a new Request for Proposal that considers open source.

Discussion and possible action regarding securing a voting system for 2007-2008 and report from Commissioner Arnold Townsend regarding his assignment from the June 6, 2007 meeting to call ES&S. Commissioner Townsend reported that he spoke to Lou Dedier, who answered his phone personally. The Commissioner asked Mr. Dedier about the system and the bond and insurance. Mr. Dedier assured the Commissioner that the system had already been submitted and the bond insurance would be in the hands of the Director of Elections by Friday, June 22, 2007. Again, Mr. Dedier said the system had gone to the Secretary of State.

Commissioner Townsend reported that as of the day of this retreat, no system from ES&S has been submitted, and no bond has been received by the Department. The Commissioner said, "the problem with asking them (ES&S)...is that they lie!"

Commissioner Townsend left the meeting at 6:45 pm.

Commissioner Shah suggested that the Commission investigate doing a resolution about the strategies that Director Arntz is working on for a successful November election to send to the Mayor and Board of Supervisors. The Director replied that by the next Commission meeting (July 18), things might have changed and it could be too late.

Commissioner Gleason said that the Commission should communicate to the Board that the option of extending the ES&S contract may not be viable. Director Arntz said that he spoke to Supervisor Elsbernd earlier in the day and advised him, via a memo, of the status in response to the Supervisor's inquiry of May 16th.

Deputy City Attorney Givner suggested that the Director could mention in his memo that over the course of months the Elections Commission has expressed, in various forms, its concern about a viable equipment contract for the election.

Public Comment. *Sacha Ielmorini* said that she finds it interesting that the Director hasn't taken the "ball and running with it in terms of getting the SOS on the line and getting ES&S on the line on a conference call." She said that a hand count should be the last resort. *Brent Turner* said that the City has never done business with Sequoia before and that he's heard that Sequoia has said that they will sue the City if it does not carry out the contract the company was awarded. He said this is not what you want to hear from a company with whom you are about to do business. *Tim Meyer* said that he's been in the business of purchasing and selling equipment since 1981 and that being "jerked around by vendors is nothing new." He said the reason ES&S is doing this is because the City doesn't have any alternatives.

Discussion and possible action to approve the meeting minutes of June 6, 2007. Commissioner Matthews MOVED to approve the minutes and Commissioner Shah SECONDED. The Roll Call Vote was UNANIMOUS to accept the minutes.

Adjournment at 7:05 pm.



ELECTIONS COMMISSION
City and County of San Francisco

Jennifer Meek, President
Arnold Townsend, Vice President
Gerard Gleason
Victor Hwang
Richard P. Matthews
Tajel Shah
Winnie Yu

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

CANCELLED

8:00 a.m. nsf
DOCUMENTS DEPT.

JUN 14 2007

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Elections Commission Meeting
Wednesday, June 20, 2007 at 7:00 pm
City Hall Room 408

ELECTIONS COMMISSION
City and County of San Francisco



Jennifer Meck, President
Arnold Townsend, Vice President
Gerard Gleason
Victor Hwang
Richard P. Matthews
Tajel Shah
Winnie Yu

John Aratz
Director of Elections

Shirley Rodriques
Commission Secretary

Elections Commission Meeting
Wednesday, July 18, 2007 at 7:00 pm
City Hall Room 408

ORDER OF BUSINESS

1. **CALL TO ORDER**

DOCUMENTS DEPT.

2. **ROLL CALL**

JUL 12 2007

3. **FLAG SALUTE**

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4. **Announcements**

5. **Public Comment** on any issue within the Elections Commission's general jurisdiction.

6. **Director's Report**

• **Division Updates**

• Ballot Distribution	• Poll Locating/ADA
• Budget/Personnel	• Poll Worker Division
• Campaign Services	• Technology Division
• Outreach	• Voter Services

- Update on securing a voting system for 2007-2008
- Update regarding positions and facilities not funded in the new fiscal budget and update of the Director's request to the Mayor's Office for a written explanation of why these were not funded. (Requested by Commissioner Shah at the June 20, 2007 Retreat)
- Brief Overview of Manually Counting and Tallying Votes for November 6, 2007 Election. (Memo to the Board and Mayor, June 28, 2007)

7. **Deputy City Attorney's Report**

- Update on restrictions for Commissioners signing petitions, attending fundraisers at which the Commissioner has made no monetary contribution.

- Update on legality from a federal, state, and city view of contracting with a vendor who does not yet have a certified voting system

8. **Commissioners' Reports**

- Meetings with public officials
- Meetings with nongovernmental organizations
- Oversight and Observation activities
- Long-range planning for Commission activities and areas of study

9. **Discussion and possible action regarding securing a voting system for 2007-2008**

10. **CLOSED SESSION**

Closed Session held pursuant to Ralph Brown Act, section 54956.9 and Sunshine Ordinance Section 67.10(d)

- (a) Closed Session discussion and possible action on reappointment of the current Director of Elections for another 5 year term beginning May 2008

11. **Discussion and possible action regarding disclosure of Closed Session pursuant to Ralph Brown Act, section 54956.9, and Sunshine Ordinance, section 67.10(d)**

12. **NEW BUSINESS**

- (a) Discussion and possible action to approve the Elections Commission minutes for the Retreat and Special Meeting of the June 20, 2007.
- (b) Discussion and possible action to send a letter of recommendation to the Board of Supervisors, Mayor, and State Senators Boxer and Feinstein regarding the nomination of Hons von Spakavsky to the Federal Elections Commission. (Commissioner Townsend)
- (c) Discussion and possible action to amend the Bylaws to conduct personnel reviews for the Secretary of the Elections Commission and the Director of Elections annually and to determine a formal process for these reviews. (Commissioner Meek)

13. **Discussion of Ideas for Improving Commission and Future Plans, Projects, and Agendas (Forwarded from Retreat -- Commissioner Meek)**

14. **Public comment on any issue within the Elections Commission's general jurisdiction.**

ADJOURNMENT

Disability Access

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ELECTIONS COMMISSION
City and County of San Francisco

AMENDED AGENDA

Jennifer Meek, President
Arnold Townsend, Vice President
Gerard Gleason
Victor Hwang
Richard P. Matthews
Tajel Shah
Winnie Yu

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

Elections Commission Meeting
Wednesday, July 18, 2007 at 7:00 pm
City Hall Room 408

ORDER OF BUSINESS

1. **CALL TO ORDER**

DOCUMENTS DEPT.

2. **ROLL CALL**

JUL 16 2007

3. **FLAG SALUTE**

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6. **Director's Report**

• **Division Updates**

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 - (c) Discussion and possible action to amend the Bylaws to conduct personnel reviews for the Secretary of the Elections Commission and the Director of Elections annually and to determine a formal process for these reviews. (Commissioner Meek)
 - (d) Discussion and possible action to approve sending representatives of the San Francisco Elections Commission to observe the Baja State (Mexico) elections on Sunday August 5, 2007. The City & County of San Francisco will not be responsible for any expenses or liability incurred for commissions to travel to and observe the Baja State elections.
13. **Discussion of Ideas for Improving Commission and Future Plans, Projects, and Agendas (Forwarded from Retreat -- Commissioner Meek)**
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Elections Commission

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July 18, 2007

City and County of San Francisco

Elections Commission

Approved: August 15, 2007

Minutes of the Meeting at City Hall Room 408

July 18, 2007

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1. **CALL TO ORDER.** President Jennifer Meek called the meeting to order at 7:05 pm.
2. **ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Winnie Yu, and Victor Hwang, Deputy City Attorney Jon Givner, and Director of Elections John Arntz. EXCUSED: Commissioners Arnold Townsend, Tajel Shah, and Richard P. Matthews.
3. **Announcements.**

President Meek announced that Commissioner Shah is not present due to the impending birth of her child.
5. **Public Comment.** *Chandra Friese* gave the Commission a resolution passed by the Board of The League of Women Voters the previous evening. The League's resolution offers assistance to the Department of Elections in recruiting its members and members of the general public to count votes for the November 2007 election. *Alec Bash* said that his group, Democracy Action offers its services as well. *Carol Bella* said that she and others in the audience are from the San Francisco Election Integrity League and offer their services too.
4. **Director's Report.**

Ballot Distribution: The Division is working with vendors to outsource the permanent absentee ballots, and to purchase paper for the Voter Guide.

Budget/Personnel: The Budget has been passed, and now the Department is submitting invoices for the upcoming fiscal year. There are plans to tighten the tracking and forecasting processes regarding expenditures.

Campaign Services: The nomination period began July 16, and ends August 10. There are currently 28 potential candidates for Mayor, 4 for the Sheriff, and 1 (the incumbent) for District Attorney. The Fair Political Practices (FPPC) filing deadline is July 31, and 10,000 filings are

expected. Staff are scanning the files of these documents, which will allow for the removal of file cabinets in the DoE lobby area. The space is needed to assist in reconfiguring the counter area to provide accessibility for persons with disabilities.

Outreach: The Division has sent letters to 300 organizations requesting to attend their functions and help get out the vote. The Director asked the Commission to contact him with the names of any organizations Commissioners would like contacted.

Poll Locating and ADA: The Division put together a report of accessible polling places that will appear in a chapter of the CACEO's (California Association of Clerks and Election Officials) manual that will be used by counties statewide to help establish guidelines to assist voters with specific needs. Additionally, the staff is sending out "availability letters" to all past polling sites to determine availability for our upcoming election cycles.

Pollworkers: The Division is interviewing for temporary staffing for the upcoming elections and developing letters to send to past pollworkers. Bilingual worker placements are being reviewed. Something new this year will be that all signs, formerly placed throughout polling places, will be in one location on one large stand. Past pollworkers who received favorable reviews will no longer need to take the standard class that new pollworkers must take, these experienced workers will have a question and answer session with trainers and staff. These workers often have good ideas and these sessions with offer a forum.

Technology: Staff have developed a tracking system for staff hours and relating the information to the procedures manual, and our budget expenses. The Division is also working on databases for the Outreach and Pollworker divisions and for ballot reconciliation after the election.

Voter Services: An initiative unexpected petition has been received with 18,000 signatures within the last week. Verification of a random sample of these signatures will begin, along with the processing of registration cards and signatures in lieu of filing fee petitions that are coming into the Department.

Publications: This Division is preparing for the Ballot Simplification Committee's work which begins the end of July. This Committee (made up of private, citizen-volunteers) prepares shortened descriptions of the measures on the ballot. The Division is also working with vendors on ballot and voter guide formatting and timelines.

Commissioner Hwang asked Director Arntz if there is outreach to domestic violence or transitional shelters (in which approximately 200 women are residents at a given time) whose clients may be displaced from their regular voting addresses. Director Arntz replied that he believed there was outreach to these centers, but if not, he would see that there is and will report back to the Commission. Additionally, Mr. Arntz said that the Department will conducting outreach in the SROs (single room occupancy locations). Commissioner Hwang said that he would be available if the Department needed contacts to reach these voters.

Update on securing a voting system for 2007-2008: Elections Systems and Software's (ES&S)

provided an application packet to the Secretary of State (SoS) approximately three weeks ago. The Director checked with the SoS, in preparation for tonight's Commission meeting, and was advised that the application is not complete and technical documentation is still needed from ES&S. The SoS needs the missing information to prepare a test plan. The Director spoke to ES&S after his discussion with the SoS and was told that they were "waiting for the test plan"! ES&S says that it will arrange a conference call with the SoS and Director Arntz tomorrow.

Brief Overview of Manually Counting and Tallying Votes for November 6, 2007 Election. (Memo to the Board and Mayor, June 28, 2007): Director Arntz explained that the memo's purpose was to show the scope of a hand count, he was not advocating for one nor was he discouraging the use of one.

Update regarding positions and facilities not funded in the new fiscal budget and update of the Director's request to the Mayor's Office for a written explanation of why these were not funded. (Requested by Commissioner Shah at the June 20, 2007 Retreat): Director Arntz reported that he is attempting to change the categories of the temporary positions so that the Department will not lose them once staff reach their 1040-hour limit. The new category is called "Category 18" and will keep the positions for three years. President Meek said that Commissioner Shah may have intended for someone from the Mayor's office to come to a Commission meeting to explain their cuts to the DoE budget and that this can be held over to another meeting when Commissioner Shah will be present.

Public Comment. *Alec Bash* said that he feels that RCV (Ranked Choice Voting) may not be important in this November's election because there are few serious opponents to the incumbents. *Jennifer Hammond* questioned a footnote in Director Arntz' June 20, 2007 letter regarding the possibility that a system may still be used if it is not certified before August 3rd. *Brent Turner* said that the hysteria in the newspaper was unnecessary and that we shouldn't worry about conditions beyond our control, and that he hopes the Director issues a new RFP. *David Pilpel* said that after reading the memo on hand counting it was not clear at what point a decision must be made that ES&S is not happening, that there is no other automatic system we can use and that we must go to a manual count. He said it would be important to have a date, and to know when to ask for supplemental funding for the hand count. *Sacha Ielmorini* asked if the DoE has been in contact with the SoS regarding options if the machines are not re-certified.

5. Deputy City Attorney's Report

Update on restrictions for Commissioners signing petitions, attending fundraisers at which the Commissioner has made no monetary contribution. Deputy City Attorney Giver said that the Charter generally prohibits Commissioners from attending fundraisers raising monies for a local committees or candidates, even if the Commissioner is not paying to attend but is attending with out charge. If a Commissioner is invited to a fundraising event held by a group that may make contributions, the Commissioner should speak to the City Attorney's office for advice depending on the circumstances.

Regarding signing petitions, the Deputy City Attorney said that will be handled in a written memo. Update on legality from a federal, state, and city view of contracting with a vendor who does not

yet have a certified voting system. Deputy City Attorney Jon Givner explained that Section 19201 of the California Elections Code states that no voting system shall be used unless it has received the approval of the SoS prior to any election at which it is first to be used, and no jurisdiction may purchase or contract for a voting system in whole, or part, unless it has received the approval of the SoS. Regarding the ES&S contract extension, Mr. Giver said, we have not contracted for a new voting system, but merely for service and maintenance on the system we currently have and are in compliance with the Elections Code provision. Regarding Sequoia, although they do not have a system that's been specifically certified for RCV in San Francisco elections, it does have a system that's been approved by the SoS, and the contract negotiated with Sequoia several months ago provides for certification in advance of an election.

Commissioner Gleason said that the State's wording of "continued use" seems to say that a system has to be certified the first time before being used in an election. He asked if there is something that says we have to have certification for continued use once it has been certified? As an example, in the case of ES&S, it has been certified, and if we forego the RCV portion? Director Arntz answered that RCV makes the system go back to the SoS for certification. He added that this opens the system for review. If there were no RCV component and no "top to bottom review", the answer would be "yes, the system would remain certified and allowed for continued use."

Commission Gleason asked if we have the ability to remove the RCV portion. Director Arntz replied that normally the answer would be yes, but there is the second issue now of the "top to bottom review" that all systems must now receive.

Deputy City Attorney Givner said that he could brief the Commission on the legal issues related to the "top to bottom review" at the next meeting but it will be over by then. President Meek said the purpose of the review, although it is inconvenient for the DoE right now, is to ensure that we are using systems that are safe, secure and reliable.

Public Comment. *Brent Turner* said that all the systems are basically the same and that there has been no great progress technically. Mr. Turner added that Sequoia Systems and Software has threatened to sue the City. *David Pilpel* said that he recalled that there were several steps that ES&S needed to take to certify the contract amendment: one was insurance. He asked if those steps had occurred and has the contract amendment been approved. Director Arntz answered that this has happened. President Meek asked if it was true that Sequoia has threatened to sue the City. The Director replied that he had not received such a threat.

6. Discussion and possible action regarding securing a voting system for 2007-2008.

President Meek said that she placed this item on the agenda because the full Commission was meeting only once a month and wanted to be able to take suggestions from members. This will be a continuing item until it is resolved.

Public Comments. An unidentified speaker said that, although the Commission is not required to answer questions from the public, she hoped that the Department and Commission are hearing the questions and taking them into consideration. *Carol Bella* said she would like the

footnote explained from the Director's June 20 memo that she says claims that the City will not have a hand count because the SoS will probably certify ES&S. *David Pilpel* asked at what point will the DoE determine whether to use a partial or full machine count or not as it relates to ballot design. Director Arntz replied that it is a "fluid situation", and that the outcome of the testing and how the SoS uses her discretion all play a part in this decision. *Jennifer Hammond* said that she is still confused regarding the August 3 deadline mentioned in the June 20 memo. Director Arntz explained that in the SoS's communication regarding the "top to bottom review" The SoS indicated that any system that was decertified after August 3 could most likely be used for the November and February elections and that changes would be for the June 2008 election. *Brent Turner* thanked the Director and the Commission for their attention to the seeing that the City's upcoming election will not be the "fiasco" predicted in today's newspaper story. *Roger Donaldson* suggested that the Commission send a letter to the Examiner newspaper to correct their perception of the upcoming election and reminding them that this is a statewide problem.

7. **CLOSED SESSION** discussion on possible reappointment of current Director of Elections.

Public Comment. *David Pilpel* said that it would be an excellent choice to reappoint the current Director. *Brent Turner* said he appreciated Director Arntz' good work and wanted to see him continue.

Closed Session Began at 8:04 pm

In attendance were: Commissioners Gleason, Hwang, Yu, Meek, Deputy City Attorney Givner, Secretary Rodriques.

Closed Session Ended at 8:13 pm

8. **Discussion and possible action regarding disclosure of Closed Session pursuant to Ralph Brown Act, section 54956.9, and Sunshine Ordinance, section 67.10(d)**

Commissioner Gleason MOVED and Commissioner Hwang SECONDED to not disclose the discussion during Closed Session. The Roll Call Vote was UNANIMOUS.

Announcement. President Meek announced that the Commission voted unanimously to appoint John Arntz to another five-year term, as Director of Elections, to begin May 2008.

9. **NEW BUSINESS**

(a) **Discussion and possible action to approve the Elections Commission minutes for the Retreat and Special Meeting of the June 20, 2007.**

Commissioner Hwang MOVED and Commissioner Yu SECONDED approval of the minutes after corrections made by Commissioner Gleason and Mr. David Pilpel. A roll call vote was UNANIMOUS to adopt the minutes with these corrections: Page 5, change Deputy District Attorney to Deputy City Attorney; Page 7, change Department to precinct; include the names of all persons present during Closed Session.

(b) **Discussion and possible action to send a letter of recommendation to the**

Board of Supervisors, Mayor, and State Senators Boxer and Feinstein regarding the nomination of Hons von Spakavsky to the Federal Elections Commission.

(Commissioner Townsend) President Meek reported that Commissioner Townsend wanted this item held over until the next meeting when he would be able to attend and make comments. Deputy City Attorney Givner suggested that if the Commission does decide to send a letter or pass a resolution, that it be addressed to the Board and Mayor, rather than the senators, encouraging the Board and/or the Mayor to contact the senators directly, because of the Commission's role under the Charter and the powers and duties that are reserved to the Board of Supervisors.

Commissioner Yu asked if there was conflict of interest because the Commission would be discussing a political appointment. Deputy City Attorney Givner said there was not a conflict with the policy discussion and that he could advise further at a meeting that included Commissioner Townsend.

Public Comment. *David Pilpel* said that any letter should be addressed to the Board and/or the Mayor because they have the power, in the Administrative Code, to advocate for legislative matters at the federal level. He asked that a bio or other information be included in the packet for the meeting when this topic is again discussed. *Chandra Friese* gave the Commission a copy of a print out from a newspaper website, purported to have been written by Greg Gordon of McClatchy Newspapers, about Hans von Spakovsky and read from the article. *Alec Bash* said that San Francisco is very non-partisan and that this person does not appear to be the kind of person this City would want to support. *An unidentified speaker* said he supported sending a letter opposing the nomination.

This item was TABLED until the next meeting.

- (c) **Discussion and possible action to amend the Bylaws to conduct personnel reviews for the Secretary of the Elections Commission and the Director of Elections annually and to determine a formal process for these reviews.** (Commissioner Meek) President Meek asked that Deputy City Attorneys Givner and O'Leary work to write bylaw amendments for annual personnel reviews. Additionally, President Meek asked for someone to volunteer to research the process for conducting the reviews. Deputy City Attorney Givner said that he would draft the amendments and return to the Commission with that language and information about the process for the reviews. This item is HELD OVER until the next meeting.
- (d) **Discussion and possible action to approve sending representatives of the San Francisco Elections Commission to observe the Baja State (Mexico) elections on Sunday August 5, 2007. The City & County of San Francisco will not be responsible for any expenses or liability incurred for commissions to travel to and observe the Baja State elections.** Commissioner Gleason said that

he asked that this be on the agenda because he and Commissioner Matthews were invited by personal contacts, that pre-date his working in the DoE and being on the Commission, to view international elections. The Commissioner said that he is asking the Commission to allow him to go as a Commissioner, at no expense to the City. There will be a precinct hand count at the end of the Baja State election and the entire process will be informative. Commissioner Matthews would also like to attend. There are expected to be other California elections officials present.

Commissioner Gleason MOVED and Commissioner Yu SECONDED approval for interested Commissioners to attend.

Public Comment. *David Pilpel* said that this observation of the Baja State election met with his approval and that the visiting Commissioners not discuss matters that may come before their Committee while together. He said it would be "nifty" to have a report from the Commissioners at the next full Commission meeting.

The Roll Call Vote was UNANIMOUS to approve the visit to Mexico.

0. **Discussion of Ideas for Improving Commission and Future Plans, Projects, and Agendas** (Forwarded from Retreat -- Commissioner Meek) *President Meek* said that this was carried over from the Retreat because there wasn't enough time to cover the topics. She said the current plans are to do the annual reviews for the Secretary and Director and to revise the Election Plan, which is now in Committee. *Commissioner Hwang* suggested that the Commission monitor any federal legislation. *President Meek* said that the Commissioner's topic would be on future agendas.

Public Comment. *Brent Turner* suggested that the Commission get involved in a study session or live demonstration regarding open source, and offered to help make the arrangements. *Sylvia Johnson* spoke about her experiences getting information and her need to get glasses to help her read. *Alec Bash* agreed with Brent Turner regarding the Commission scheduling an open source demonstration at a meeting.

ADJOURNMENT at 8:40 pm.



ELECTIONS COMMISSION
City and County of San Francisco

Jennifer Meck, President
Arnold Townsend, Vice President
Gerard Gleason
Victor Hwang
Richard P. Matthews
Tajel Shah
Winnie Yu

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

Elections Commission Meeting
Wednesday, August 15, 2007 at 7:00 pm
City Hall Room 408

ORDER OF BUSINESS

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1. CALL TO ORDER

2. ROLL CALL

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3. FLAG SALUTE

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4. ANNOUNCEMENTS

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5. Public Comment on any issue within the Elections Commission's general jurisdiction.

6. Special Presentation on Federal Bills That May Impact Voting Rights

7. Greg Wagner, Budget Analyst from the Mayor's Office, will respond to questions from the Commission regarding this year's budget.

8. Director's Report

• Division Updates

• Ballot Distribution	• Poll Locating/ADA
• Budget/Personnel	• Poll Worker Division
• Campaign Services	• Technology Division
• Outreach	• Voter Services
• Publications	• Ballot Simplification Committee

• Update on securing a voting system for 2007-2008

9. Commissioners' Reports

- Report of observations of the Baja State (Mexico) elections on Sunday, August 5, 2007. (Commissioners Gleason and Matthews)
- Other Commissioners may give reports, if any, on the following:
- Meetings with public officials

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- Oversight and Observation activities
- Meetings with nongovernmental organizations
- Long-range planning for Commission activities and areas of study

10. OLD BUSINESS

- (a) Discussion and possible action regarding securing a voting system for 2007-2008.
- (b) Discussion on amendments to the Bylaws and creation of a policy to conduct personnel reviews for the Secretary of the Elections Commission and the Director of Elections annually and to determine a formal process for these reviews. (This item was carried over from the July 16, 2007 meeting.)

11. NEW BUSINESS

- (a) Discussion and possible action to approve the Elections Commission minutes for July 18, 2007.
- (b) Discussion to collect questions to ask the Mayor's Budget Analyst in the next full Commission meeting.
- (c) Discussion and possible action to adopt suggestions from the Budget and Oversight of Public Elections Committee regarding the format, content and publicizing of the November 6, 2007 Election Plan and the post-election assessment of the Plan. (Committee Chairperson Gleason)
- (d) Discussion and possible action to send a letter to the Board of Supervisors and the Mayor, in opposition of approving the appointment of Hans von Spakovsky to the Federal Elections Commission. (This item was carried over from the July 16, 2007 meeting so that Commissioner Townsend, who requested this item be on the agenda, could provide input in the discussion)
- (e) Discussion and possible action to submit a request to the Board of Supervisors for a waiver allowing certain City employees or officers to work on the November 6, 2007 Municipal Election.
- (f) Discussion and possible action to submit an Alternative Transportation and Security Plan to the Board of Supervisors because the Sheriff will be a candidate in the November 6, 2007 Municipal Election.

12. Discussion regarding items for future agendas

13. Public comment on any issue within the Elections Commission's general jurisdiction.

ADJOURNMENT

Disability Access

The Elections Commission meeting will be held in Room 408, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA. The Commission meeting room is wheelchair accessible. The closest accessible BART station is the Civic Center Station at United Nations Plaza and Market Street. Accessible MUNI lines serving this location are: #42 Downtown Loop, and #71 Haight/Noriega and the F Line to Market and Van Ness and the Metro Stations at Van Ness and Market and at Civic Center. For information about MUNI accessible services call (415) 923-6142. There is accessible curbside parking adjacent to City Hall on Grove Street and Van Ness Avenue and in the vicinity of the Veterans Building at 401 Van Ness Avenue adjacent to Davies Hall and the War Memorial Complex.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact The Elections Office at (415) 554- 4375 or our TDD at (415) 554-4386 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals. Individuals with chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-6060.

Know your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7724; FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

Materials contained in the Commission packets for meetings is available for inspection at the Elections Department, City Hall Room 48, in the Commission's Public Binder, no later than 72 hours prior to meetings.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300, fax (415) 581-2317; web site at www.sfgov.org/ethics.

Elections Commission

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DOCUMENTS DEPT.

August 15, 2007

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City and County of San Francisco Elections Commission

Approved: _____

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Minutes of the Meeting at City Hall Room 400

(This meeting room changed due to Room 408 having a meeting that ran overtime)

August 15, 2007

1. **CALL TO ORDER.** President Jennifer Meek called the meeting to order at 7:05 pm.
1. **ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Winnie Yu, and Victor Hwang, Arnold Townsend, Tajel Shah, and Richard P. Matthews, Deputy City Attorney Jon Givner, and Director of Elections John Arntz.
1. **Announcements.**

Commissioner Tajel Shah presented her three week old daughter, Zareen. The Commission congratulated the Commissioner on the birth.
4. **Public Comment.** *Jane Allen* asked the members to speak into the microphones to be heard more clearly by the audience. *Brent Turner* said that regarding HR 811, the open source community was in dialogue with Congressional and Assembly members requesting open source requirements in HR 811. Mr. Turner handed out information regarding the Secretary of State's top-to-bottom review which he said contained results/interpretations of the security of the voting machines. Mr. Turner characterized these results as "tragic and horrible". *Jennifer Kidder* said that she and her friends welcomed the top-to-bottom review but that it does not cover "secret software" that may be coming from the equipment manufacturer. Ms. Kidder said that "hacking from the outside" was the lesser of what she considered to be the great problems with this equipment.
5. **Special Presentation on Federal Bills That May Impact Voting Rights.** President Meek reported that the speaker for this topic will attend a future meeting.

Public Comment. *David Pilpel* asked that when this item appears on future agendas, that information on the bills be included in the meeting packets.

6. Greg Wagner, Budget Analyst from the Mayor's Office, will respond to questions from the Commission regarding this year's budget.

1. Why wasn't the DOE given the increase for better facilities and what do we need to do to impress upon the importance of this issue?

Mr. Wagner's Response: There was a provision in the contract (with Sequoia Voting Systems) which included significant monies for capital investment to keep voting machines at the Pier Facility. The uncertainty of what space would be needed, and the non-approval of the contract both happened at budget approval time. Therefore, the DoE submitted its budget request without the \$700,000 to \$800,000 needed to meet the level of rent contemplated with the Sequoia contract. The City Administrators Office and capital planning staff are aware that this may be a need in the future.

Commissioner Shah said it is possible that the DoE may have to go to the Board for money to cover a hand count. She said that when that happens, she hopes that long-term improved facilities will be a part of the discussion.

Mr. Wagner said that this would be the case.

1. Given the state of our current, unanticipated elections situation for 2007-2008, it appears that the City may need to cover additional costs 2007-2008. If a new space is needed to accommodate a hand count, will it be considered a longterm solution or just a one year fix?

President Meek said that Mr. Wagner's response to question "a" is appropriate to cover this question as well.

1. How was it determined that associates with management roles within the DOE should still be designated as "Clerks" and not given the more appropriate title of "Managers"?

Mr. Wagner's Response: Many competing priorities are weighed during budget discussions when departments are "scraping for money". Upgrading positions can often be a "tough sale" during these times for all departments. Some favorable staffing changes were made after discussions with managers.

Commissioner Townsend said that no matter how badly the City is "scraping" it is never an excuse for underpaying people. People deserve to make what they are earning. In order to run an election, there are certain things that must be accomplished, such as delivery of voting machines to all the precincts. This cannot be accomplished if the vehicles that make that delivery are cut from the budget. The Commissioner said that the people in charge of funding the budget need to know what is involved in running an election.

President Meek said that she was impressed with the small number of staff she saw during a tour of the DoE who were performing a great amount of work, and that what concerns her is the Department be able to retain those good workers with appropriate titles and salaries. If that doesn't happen, she said, the elections will suffer.

Commissioner Shah asked for more detail regarding the position changes that were made with the new budget.

Mr. Wagner responded that one position was upgraded to match others in the series, that changes were made to some IS (Information Systems) positions, and added a "good deal" of salary and work order money is being work ordered to the CAO. Discussions continue regarding how these changes will work.

Commissioner Shah asked what are the plans regarding making temporary positions permanent?

Mr. Wagner responded that two IS positions were made permanent (this was recommended in the Controller's report two years ago), one administrative position was made permanent, and including the positions being work-ordered to the CAO, the Department is far in excess of where it was, regarding permanent staffing, last year.

Commissioner Yu reminded the Commission and *Mr. Wagner* that there is much institutional memory with the temporary staff and it is important that this knowledge is retained and strengthened.

1. Why was the Commission's Secretary position downgraded from full-time to ¾-time? Although the Commission's budget is within the Department's, the Commission should be responsible for defending its own budget. How can the Commission be more integrated into the budget process to defend and manage its own budget?

Mr. Wagner's Response: The position has been retained at three-quarter's time.

President Meek reminded *Mr. Wagner* that the Commission originally requested that the position be 100 per cent funded and that he replied that the possibility of full-time funding was very high. Subsequently, the position was reduced even further to 50%, but was restored to 75%. However, the Commission was not aware of this until recently. *President Meek* asked, "because the Commission's budget is integrated within the Department's budget, how can we function and support our own budget, so that the Director does not have to defend the Commission's budget?"

Mr. Wagner's Response: The Elections Commission is in a unique position because it has Charter status. He suggested that the Commission keep in communication with the Department regarding the budget's status and said that most Commission's do not have full-time dedicated staffing, and depend, as far as he knows, on department staffing for their administrative work.

- (e) Regarding the Controller's Statement on "E", City Controller Edward Harrington issued the following statement on the fiscal impact of Proposition E which reads:

"Should the proposed Charter amendment be adopted, in my opinion, there would be an

increased cost of government of approximately \$100,000 per year to provide an Elections Commission secretary and cover the cost of meetings, public notices, and other requirements of a Commission. The provisions which prohibit city employees from working on election-related tasks, and which require the Sheriff to provide security for ballot materials, would incur a minimum cost of approximately \$542,00 per year for a typical fiscal year with two elections."

Commissioner Gleason said that when the Elections Commission was set up, what was needed to operate was not discussed. He said that he had just returned from watching the elections in Baja, Mexico, where everyone was given a copy of the Elections Code. Here in San Francisco, the seven member Elections Commission is funded only one copy of the Elections Code, and no operating budget. The Commission is at the mercy of the Elections Department.

Mr. Wagner's Response: The Controller takes a stab when these things go on the ballot and I cannot comment until I've taken a look at what they used for their analysis. Commissioner Gleason's point is well taken.

Public Comment. *Jennifer Kidder* said that a national law regarding a hand count paper ballot system has a provision for counting the ballots at the precinct level as soon as the voting is over and allows the public to watch. *Jade Lai* asked that, whenever possible, polling places be in large areas like schools instead of home garages. *David Pilpel* said that there is a requirement in the Charter that each department head, by the end of August, must either sign a statement saying that their budget is adequate in all respects to meet their department's requirements or not such a statement. Mr. Pilpel asked if the Director intends to send such a statement. *Director Arntz* replied that he had never signed such a statement and that he did send a letter stating the inadequacies of the last budget. However, the Director said he hasn't contemplated his approach for this budget cycle.

7. Director's Report.

Ballot Distribution: The Division is preparing facilities for the elections cycles: 240 Van Ness, Brooks Hall and Pier 29.

Budget/Personnel: The Division is currently in its support mode for all the managers. It is filling all the temporary positions required for the elections.

Campaign Services: The nomination deadline for the November ballot was last Friday. Tomorrow will be the proponent/opponent argument deadline, and next Monday will be the paid argument deadline. The Division has already received a measure for the February election from the Board. The Open House is being planned for the end of September or early October.

Outreach: The Division is now fully staffed with its temporary workers. They are making phone calls and setting up presentations (approximately 100 have already been set). Public Service

Announcements (PSAs) have been completed for the media and are on our website. There are plans to send the PSAs to voters who have provided the DoE with their email addresses on their registration cards. This will be the first time the Department has attempted to communicate with voters by email. The Division is developing a mailer to encourage people to vote.

Publications: This Division has completed its work with the Ballot Simplification Committee. The Digest, that explains the measures on the ballot, has been sent to the typesetter and an early draft of the first of the two-card ballot for November is completed. The Division is working on translations of the ballot and voter guide. The Department of Justice has contacted the DoE for information regarding transliteration of election materials because of San Francisco long history of providing this service to its voters.

Poll Locating and ADA: The Division is identifying polling places constantly, because they change from election to election – former sites become unavailable. Currently, the staff is seeking 74 sites; this number does not include replacements for accessibility. There is a new accessibility website available to voters using the Elections Department website. Sensitivity training of all DoE staff regarding people with disabilities will begin soon and will be handled by this Division.

Pollworkers: The Division is sending out availability letters to former workers. There will be a fifty dollar bonus given to workers who sign up and work all of the next three elections (November, February and June). The bonus will be given with the pollworker pay for the June 2008 election. It is hoped that this will provide incentive that will help the Department retain these workers. Having three elections in such a short amount of time will cause some fatigue, not just in the Department and the voters, but with the people who support the elections, such as the pollworkers.

Technology: The Division has been setting up phones and computers for the arriving temporary staff, and getting the databases ready for their use.

Voter Services: The Division is maintaining the registration database. The current information is the cleanest and most organized in the last eight years. 20,000 new voters are being inputted. Records are being cancelled and activated constantly.

The Ballot Simplification Committee: This session was one of the most challenging due to the numbers of people making statements. This is the first time in five years that all positions (five) on the Committee have been filled. The group volunteers its time and is compensated only with Danish Rolls and coffee in the morning. They go through a process that is very tedious and can be contentious; and provide explanations of the measures that are understandable to a very wide range of voters.

President Meek commended the Director for the pollworker retention plan.

Commissioner Gleason said he was pleased to see that the Ballot Simplification Committee was fully staffed for this election and commended the group as one of the hardest working volunteer

committees in the City. He commended the Director for San Francisco being sought out by the Department of Justice for its expertise regarding transliteration of election information.

Update on securing a voting system for 2007-2008: The Secretary of State (SoS) and Elections Systems and Software's (ES&S) are communicating regarding a test plan for the system for San Francisco in the not too distant future. The Director said that he anticipates that the equipment will face conditions like those that went through the top-to-bottom review. The conditions will probably face more auditing at different points in the process to determine how the equipment is operating compared to a review by the DoE. The Director has informed the President of the Board and the Mayor that the Department is not funded for this extra work.

Public Comment. *Jennifer Kidder* said that she is an advocate for hand count paper ballots and commended the Director for putting information on the DoE website in the "html" format, his advocacy for languages and disabled access for information. *Brent Turner* said he sent a slide show presentation to the Director and that his group, Open Voting Solutions, is in communication with advocacy groups for the disabled and wants the Commission to know that there is a lack of compliance regarding disabled issues with the current voting systems. He urged the Director to cancel the Sequoia Voting Systems RFP because of a report that the company was using slave labor, in the Philippines, to make the machines. *Roger Donaldson* said he was glad to see the DoE doing work to retain good workers and that there will be more audit procedures during the election. He said that the current testing and disclosure of the results of that testing by the SoS is a first. Mr. Donaldson stated that the Sequoia system had "quite a number of issues" during the testing and that this should be a reason to terminate their system's procurement.

Commissioner Matthews asked the Director if the SoS testing was purely performed on DRE, and not paper-based voting. *Director Arntz* replied that the SoS tested paper-based systems for Hart, Inter-Civic, Diebold and Sequoia. The SoS decertified these paper-based systems, then recertified them, putting extra conditions on these systems. He said that part of the conditions for the decertification for the DRE and optical scan were to restart the recertification process, to set it back to "zero" again because the SoS wants to get a clean slate based on the top-to-bottom reviews and the certification reviews which will be performed soon for our system.

David Pilpel said that he had heard rumors that counties might be considering bringing legal action against the SoS regarding the top-to-bottom review, and that the Commission should be kept informed of this possibility. Regarding sending Public Service Announcements (PSAs) to voters by email, Mr. Pilpel suggested to send a link to the PSA instead, and that the DoE should update voters' records if emails are returned unopened.

8. **COMMISSIONER REPORTS. Report of observations of the BajaState (Mexico) elections on Sunday, August 5, 2007.** (Commissioners Gleason and Matthews) Commissioner Gleason asked that this report be postponed to the next full Commission meeting, September 19, 2007.

- **OLD BUSINESS**

1. **Discussion and possible action regarding securing a voting system for 2007-2008.** President

Meek explained that this item is a continuing one on the agenda to allow Commissioners opportunity to offer comments and/or ideas to help support the Director's actions regarding securing a voting system, and asked the members if there was any discussion on this item. There was none.

(b) Discussion on amendments to the Bylaws and creation of a policy to conduct personnel reviews for the Secretary of the Elections Commission and the Director of Elections annually and to determine a formal process for these reviews. (This item was carried over from the July 16, 2007 meeting.)

President Meek informed the Commission that the forms for reviews were online and that the City offers training for performing reviews. She suggested to first set goals and expectations, that there be mid-year check points in case these change and an annual assessment which would take place in May of each year. President Meek added that there is usually a self-assessment. She said that she hoped the bylaw amendment, drafted by Deputy City Attorney Jon Givner and attached to the meeting packet could be voted upon and adopted at the next meeting.

Commissioner Matthews thanked President Meek for the draft and for the appraisal forms and said that he supported the incorporations of the standard City and County Performance Appraisal Report.

Commissioner Shah asked the Commission Secretary and the Elections Director if they were familiar with the forms and had any concerns or questions regarding the procedure.

Director Armtz responded that the evaluation was the same for other City employees and he had no problem with the Commission using it. His concern was that the next year will be a busy one with all the elections, and that he feels that he is evaluated monthly, as well as being evaluated upon the success of each election.

Commissioner Shah said that she has had experience with the City's appraisal process, and has been a recipient of the process. The Commissioner added that the cumbersomeness of it, in many cases, means that it is seldom done. She said she would like to see it be a less protracted process, with focuses around the workplan and the setting of objectives, were those accomplished or not, and why weren't they and what can be done to be successful in reaching them.

President Meek said that she would like to sit down with the Secretary and Director and to get their opinions on how it would work and what kinds of goals the Commission would be evaluating, and that this should follow training on how to do evaluations. She suggested that this may not be something that can be accomplished this year. Within the next month, she said she hopes to make a decision about the timing. President Meek said that in the meantime she would put together more structure around the topic and get an official policy that can be voted upon at the next meeting.

Public Comment. *Jennifer Kidder* said she had a comment on item 10(b) which she

failed to make and wanted to do so now. Ms. Kidder said that she needed to make clear that her stand on hand counting ballots is "radical, but only radical within the borders of this country."

David Pilpel suggested that the line "at least once" be removed from the bylaws draft amendment since it is under the title "annual review" because "once" is already implied. He said that he agreed with Commissioner Shah's comments that the procedure is cumbersome and that some Commissions do not do an annual review, but they should, and they shouldn't wait until there is a problem. Mr. Pilpel said that the setting of the goals should be an open process. However, the actual evaluation should be in closed session.

10.

NEW BUSINESS

- (a) **Discussion and possible action to approve the Elections Commission minutes for July 18, 2007.** Commissioner Hwang MOVED and Commissioner Shah SECONDED to approve the minutes. The Roll Call Vote was UNANIMOUS to APPROVE the minutes with a final check for typos.

- (b) **Discussion and possible action to adopt suggestions from the Budget and Oversight of Public Elections Committee regarding the format, content and publicizing of the November 6, 2007 Election Plan and the post-election assessment of the Plan.** (Committee Chairperson Gleason)

Commissioner Gleason said that he plans to update the template and will do so soon. The Committee suggested a more simplified first page of the plan, and directions or pointers to other public documents to be added so that the actual plan does not contain a redundancy of these documents. These changes will be available to the Commission at the next meeting.

Public Comment. *David Pilpel* said that the three basic requirements of the Commission are: to employ a director, adopt a plan and access the implementation of the plan as it relates to fair, free and functional elections. He said the plan should be a brief as possible, referencing other documents that already exist. If the Commission identifies issues that it would like to be able to assess both quantitatively and qualitatively during the election, the Director should be called upon to report on those with an opportunity for public input.

- (c) **Discussion and possible action to send a letter to the Board of Supervisors and the Mayor, in opposition of approving the appointment of Hans von Spakovsky to the Federal Elections Commission.** (This item was carried over from the July 16, 2007 meeting so that Commissioner Townsend, who requested this item be on the agenda, could provide input in the discussion). Commissioner Townsend explained that Mr. Von Spakovsky was placed on the Commission by President Bush during a recess and that he can serve for one year until he is approved for a permanent appointment. Senator Feinstein and others have said that this particular appointment will be difficult. Commissioner Townsend stated that

Mr. Von Spakovsky has spent much of his career limiting the rights of minorities to vote, one example of which is that he single handedly created the concept of voter identification cards in Georgia and Arizona. A federal judge struck down the I.D. cards, likening the plan to "Jim Crow" polling tactics. The Commissioner said that "90% of the voter fraud in this country has nothing to do with electronic equipment, but has everything to do with racism. {Votes are} not being stolen because we don't have open source. They were stolen before voting was ever computerized and continues to be so. Hand counts are not a panacea, and hand counts have been fraudulent and stolen since the beginning of time and they probably did it to Caesar and the Roman Senate".

Commissioner Townsend MOVED and Commissioner Shah SECOND the item.

Commissioner Gleason said that he had never heard of this nominee until he was brought to his attention by Commissioner Townsend. After further investigation, Commissioner Gleason said he became disturbed by the nominee's opinions regarding provisional ballots, and how to count them, which are counter to what California does.

Public Comment. *Jennifer Kidder* said that it was "appalling" to her to hear the ridicule she had just witnessed toward the voting rights movement and the elections integrity movement. She said the voting rights of people of color and people of lower economic status should be protected. *Brent Turner* said he applauds Commissioner Townsend's objection to the appointment of Han von Spakovsky. *Jade Lai* said election machines can be "used as a tool for their evil purposes" and that she approves of sending the letter. *David Pilpel* said that he originally had concerns about the Commission getting into the "letter writing business" but was now absolutely convinced after hearing Commissioner Townsend's comments that the letter should be sent.

The Roll Call Vote was UNANIMOUS to send a letter to the Board of Supervisors and the Mayor to oppose the appointment of Hans von Spakovsky.

- (d) **Discussion and possible action to submit a request to the Board of Supervisors for a waiver allowing certain City employees or officers to work on the November 6, 2007 Municipal Election.** Commissioner Townsend MOVED and Commissioner Hwang SECONDED this item.

Public Comment. *David Pilpel* said that an assessment of the number of City employees or officers the DoE required for the November 2007 election should be part of the Election Plan review after the election.

The Roll Call Vote was UNANIMOUS to submit the waiver to the Board of Supervisors.

- (e) **Discussion and possible action to submit an Alternative Transportation and Security Plan to the Board of Supervisors because the Sheriff will be a candidate in the November 6, 2007 Municipal Election.** Commissioner Townsend MOVED and Commissioner Yu SECONDED this item.

Public Comment. *David Pilpel* stated that the document does not read as a plan but as a process by which the incumbent would be removed from the process and that Chief Waters would develop a plan. He added that at least one of the challengers to the Sheriffs' office is a deputy sheriff and precautions should be included to remove that individual and any others who might be employees of the Sheriffs Department from the process. Additionally, Mr. Pilpel said that employees be cautioned to not support or oppose any candidate and just provide the services that are required.

A Roll Call Vote was UNANIMOUS to APPROVE the plan with the adjustment that any employees of the Sheriff's Department who are candidates in the election be removed from participation in activities regarding the election.

11. **Discussion regarding items for future agendas.** *Commissioner Gleason* passed out a memo with a draft policy for Commissioner activities, observations and roles on election day which was created by the Budget and Oversight of Public Elections Committee he chairs. He asked that there be discussion and possible action on the policy at the next Commission meeting.

Announcements. *Commissioner Townsend* announced that on Saturday, August 25, 2007, there will be a backpack giveaway for school students at Ella Hill Hutch Community Center.

1. **Public Comment.** *Brent Turner* said he wanted to read into the record a note by David Wagner from UC Berkeley, issued August 2, 2007, as part of the top-to- bottom review: *In the end, our report strikes a careful balance between the public's interest in transparency into whether their voting systems are secure and the public's interest is being protected against the risks due to the disclosure of those flaws. We hope that future voting systems, better engineered than today's systems, will eliminate the need for such trade offs.* Mr. Turner said that the Secretary of State said that she hopes for open source systems.

ADJOURNMENT was at 9:28 pm.

**ELECTIONS
COMMISSION
BUDGET AND OVERSIGHT
OF PUBLIC ELECTIONS
COMMITTEE**



**GERARD GLEASON, CHAIR
TAJEL SHAH
RICHARD P. MATTHEWS**

City and County of San Francisco

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THE MEETING SCHEDULED FOR

Wednesday, September 5, 2007

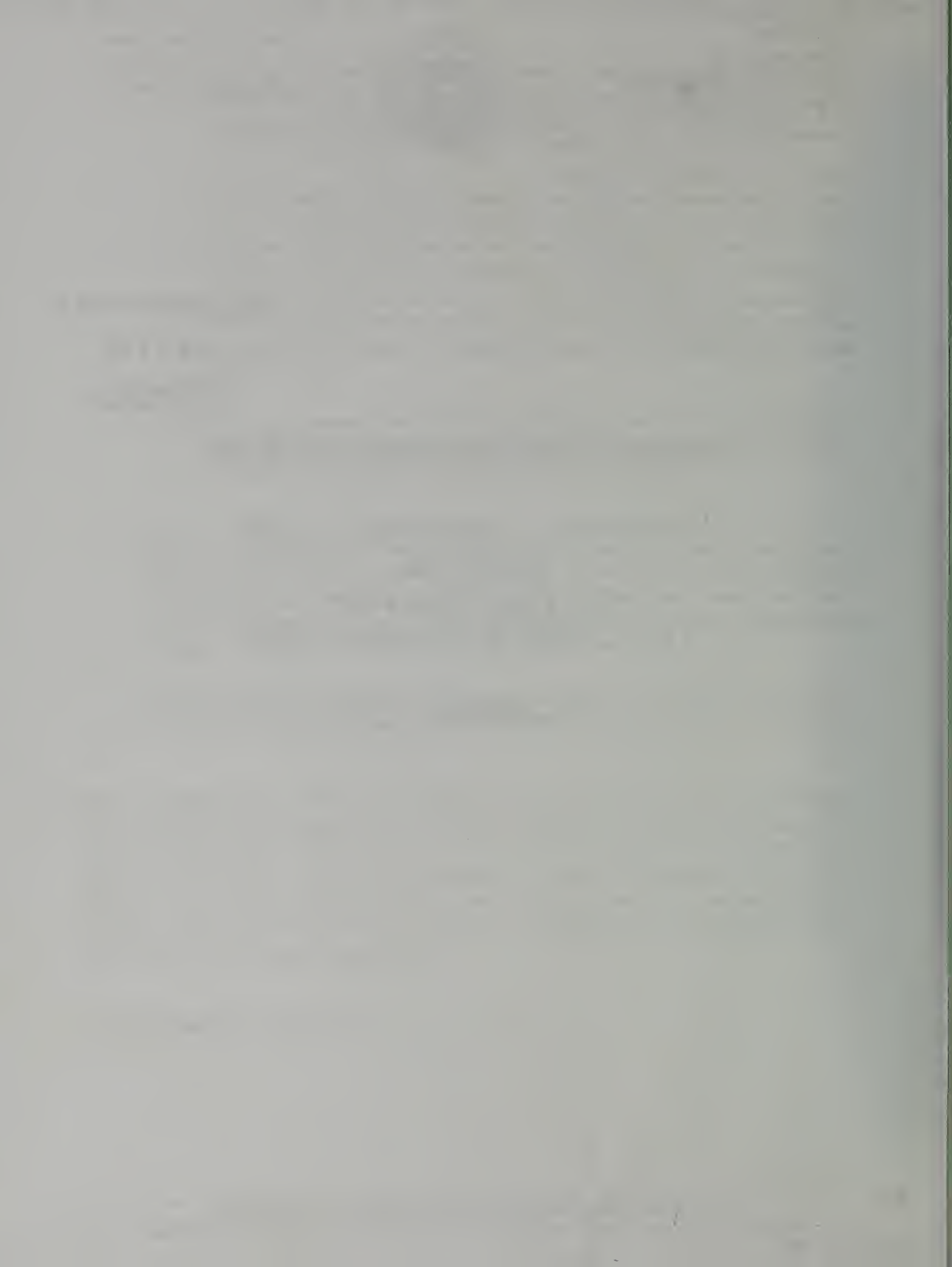
6:00 P.M.

City Hall, Room 421

1 Dr. Carlton B. Goodlett Place

IS CANCELLED

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cancelled



ELECTIONS COMMISSION
City and County of San Francisco



Jennifer Meek, President
Arnold Townsend, Vice President
Gerard Gleason
Victor Hwang
Richard P. Matthews
Tajel Shah
Winnie Yu

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

Elections Commission Meeting
Wednesday, September 19, 2007 at 7:00 pm
City Hall Room 408

ORDER OF BUSINESS

1. CALL TO ORDER

2. ROLL CALL

3. FLAG SALUTE

4. ANNOUNCEMENTS

5. Public Comment on any issue within the Elections Commission's general jurisdiction.

6. Director's Report

• **Division Updates**

• Ballot Distribution	• Poll Locating/ADA
• Budget/Personnel	• Poll Worker Division
• Campaign Services	• Technology Division
• Outreach	• Voter Services
• Publications	• Ballot Simplification Committee

- Update on securing a voting system for 2007-2008

7. Commissioners' Reports

- Report of observations of the Baja State (Mexico) elections on Sunday, August 5, 2007. (Commissioners Gleason and Matthews)
Other Commissioners may give reports, if any, on the following:
 - Meetings with public officials
 - Oversight and Observation activities
 - Meetings with nongovernmental organizations
 - Long-range planning for Commission activities and areas of study

DOCUMENTS DEPT.

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9. COMMITTEE REPORT

Discussion and possible action regarding Budget and Oversight of Public Elections' proposed policy regarding Elections Commissioner Duties on Election Day. (Committee Chairperson Gerard Gleason)

10. OLD BUSINESS

- (a) **Discussion and possible action regarding securing a voting system for 2007-2008.**
- (b) **Discussion and possible action to adopt an amendment to the Bylaws to conduct annual performance reviews for the Secretary of the Elections Commission and the Director of Elections.**
- (c) **Discussion and possible action regarding timing, structure and official policy for annual performance reviews for the Secretary of The Elections Commission and the Director of Elections. (President Meek)**
- (d) **Discussion and possible action to adopt suggestions from the Budget and Oversight of Public Elections Committee regarding the format, content and publicizing of the November 6, 2007 Election Plan and the post-election assessment of the Plan. (Committee Chairperson Gleason)**

11. NEW BUSINESS

- (a) **Discussion and possible action to approve the Elections Commission minutes for August 15, 2007.**

12. Discussion regarding items for future agendas

ADJOURNMENT

THE FOLLOWING PAGES ARE THE DRAFT MINUTES OF THE
BUDGET AND OVERSIGHT OF PUBLIC ELECTIONS COMMISSION MEETING
OF AUGUST 1, 2007.

ITEMS FOR DISCUSSION AND POSSIBLE ACTION AT TODAY'S MEETING
ARE MENTIONED IN THESE MINUTES.

For Today's Meeting

Where this discussion found in
the Committee's Draft Minutes

Item 9. → → → → → Page 3, Item 4.

Item 10 (c) → → → → → Page 1, Item 3.

**ELECTIONS
COMMISSION
BUDGET AND OVERSIGHT
OF PUBLIC ELECTIONS
COMMITTEE**
City and County of San Francisco



**GERARD GLEASON, CHAIR
TAJEL SHAH
RICHARD P. MATTHEWS**

**ELECTIONS COMMISSION
BUDGET AND POLICY COMMITTEE
City Hall, Room 421
City and County of San Francisco**

**Minutes of the Meeting Held
Wednesday, August 1, 2007**

(Approved: _____)

1. **Call to Order and Roll Call.** Commissioner Gerard Gleason, Chair, called the meeting to order at 6:07 pm. PRESENT: Commissioner Richard Matthews, Commissioner Shah, Deputy City Attorney Jon Givner and Director John Arntz.
2. **Discussion and possible action to approve the minutes for the Budget and Oversight of Public Elections Committee meeting of April 4, 2007.** Commissioner Matthews MOVED and Commissioner Shah SECONDED the approval of the minutes.

The Roll Call Vote was UNANIMOUS to approve the minutes.

3. **Discussion and possible action regarding process for adopting, assessing and publicizing the November 6, 2007 Election Plan.** Chairperson Gleason stated that the goal was to focus on the post-election evaluation of the plan and to make the Election Plan more user friendly and publicly accessible. Commissioner Gleason suggested that a Mission Statement for the Election Plan could be an addition and presented his Mission Statement draft. He said that an example of the election evaluation might be a matrix document that shows specific goals like bilingual pollworkers are needed in various languages with one column for the "planned number of workers" and a column next to it with the "actual numbers hired." Additionally, in the election assessment, the Commission can determine if something occurred during the election that was not in the Election Plan, taking into account that unusual situations can arise. The goal is full disclosure.

Commissioner Matthews agreed that there must be full disclosure but that a numerical assessment is not the only valid assessment.

Commissioner Shah suggested that the Commission examine two or three areas to determine if the election was free, fair and functional and to explain how this

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was done, instead of individual Commissioner reports. The Commission can then determine if what it did was a good way to make the assessment, and if not, how to improve the assessment.

Commissioner Gleason said that he would like a disclosure of how every ballot is handled during the election and suggested that one element of the plan be about ballot tracking. This, he said, "would take the mystery out of it."

Commissioner Matthews asked Director Arntz if there was a table that shows all the different voting possibilities. Director Arntz replied that there are flow charts that contain that information and they are in the pollworker manual. The Director offered to include the entire pollworker manual in the Election Plan.

The Committee decided to look over the manual and determine which parts might be included in the Election Plan.

Public Comment. *David Pilpel*, said that he hoped the Plan would be only 20 to 30 pages at the maximum and not include "big chunks" of other documents but would have just one line that refers voters to more detailed documents that are available at the Department or on the website. Regarding publicity, Mr. Pilpel suggested that the Voters Information Pamphlet (VIP) or a sign in the Department to direct voters to the Election Plan, should they have more questions. After the Commission makes its assessment, there should be a hearing so that the public can present any issues they want to raise.

Chairperson Gleason said that the Committee should report to the next full Commission meeting the status of the discussions regarding the Election Plan and that the next Committee meeting should cover what areas on which to focus assessment for the upcoming November 2007 election.

Commissioner Matthews said that he doesn't want to conflate the two ideas of the plan as a document and the assessment of the plan.

Chairperson Gleason offered to draft qualitative numbers, not many, to insert in the plan. Commissioner Matthews said that one subject might be the breakdown of provisional ballots cast, why those voters used them, and whether, ultimately, they were counted. Chairperson Gleason said that the DoE already reports these numbers and a link to that report may be part of the Election Plan.

Commissioner Shah said that the Committee needs to decide if the plan is to be summary or detailed based, and should the quantitative piece be included in the actual plan or be an appendix to it.

Commissioner Matthews said that he favored the Election Plan being more comprehensive "insofar as it is one of the first places a lot of the information has

been pulled together for the public.” He approves of a summary piece that routes the voter to more information should the voter request it.

Public Comment. David Pilpel said that the two ideas are not necessarily in conflict and that both could be obtained. There can be a part of the plan that states that the Director will report on “X”, and that report will be included after the election.

Chairperson Gleason said that he would work on the new draft and present it to the full Commission on August 15, 2007.

4. **Discussion and possible action regarding Commissioners’ roles on Election Day.** Commissioner Matthews said that this has been an ongoing conversation since the Commission began. Some members have considered participating in the election or working for the Department during an election. These options provide an interesting vantage point from which to observe the election. Some Commissioners think that there is no valid observation that can be made by a Commissioner on Election Day. Commissioner Matthews said that the Charter calls for the Commissioners to do an assessment, and that he is open to whatever that definition may be as long as it is valid research. He said that the idea that Commissioners should do nothing, was, to him, “ludicrous and unfounded by the Charter.”

Commissioner Matthews stated that, although there has been concern that Commissioners working as pollworkers on Election Day, presents a conflict of interest, the Charter exempts members of the Commission from the prohibition of City workers working on elections. He said the Charter specifically contemplates that Commissioners will work on the elections.

Commissioner Gleason said his thought on this issue has been evolving, especially in regard to written reports by Commissioners of their observances on Election Day. The Commissioner said he will continue to work as an inspector but will report his experiences verbally.

Commissioner Matthews asked the Deputy City Attorney to explain the liability of a Commissioner who writes a report of his/her observations during an election.

Deputy City Attorney Givner said that basically, the Commissioners will be reporting back regarding their observances, whether the report is in writing or verbal at a Commission meeting. A Commissioner doing so is reporting what he/she has seen, not creating new legal liability for the City.

Commissioner Shah suggested a policy which states that if a Commissioner does not want to observe actively on Election Day, that Commissioner is not required to do so. The Charter does not require this of a Commissioner. However, if a Commissioner wishes, he or she can be a learner, an observer,

and be involved in the assessment of the Election Plan. If one chooses to serve as a pollworker, then he or she is acting as a staff person, not a Commissioner when you perform those duties. Commissioner Shah said that clarifying this for Commissioners would be important.

Commissioner Shah recommended that the Commission create a policy, with the assistance of the Deputy City Attorney, regarding the roles of Commissioners (observer, assessor, staff person, or no role) on Election Day; and if you do an assessment, what is the mechanism you use to give that feedback.

Deputy City Attorney Givner said that he would produce a draft of this proposed policy.

ADJOURNMENT at 7:13 pm

DRAFT AMENDMENTS TO THE BYLAWS OF THE
SAN FRANCISCO ELECTIONS COMMISSION

From the August 15, 2007 meeting of the Elections Commission

Amend ARTICLE VI, COMMISSION STAFF by adding Section 3, as follows:

Section 3. Annual Reviews of Director of Elections and Commission
Executive Secretary.

The Commission shall conduct performance reviews for the Director of
Elections and the Executive Secretary during each fiscal year. Each such
review shall include, but need not be limited to, a self-assessment and a
written or in-person evaluation of that individual's performance by the
Commission.

**City and County of San Francisco
Elections Commission**

Approved: _____

Minutes of the Meeting at City Hall Room 400

(This meeting room changed due to Room 408 having a meeting that ran overtime)

August 15, 2007

1. **CALL TO ORDER.** President Jennifer Meek called the meeting to order at 7:05 pm.
2. **ROLL CALL. PRESENT:** Commissioners Gerard Gleason, Winnie Yu, and Victor Hwang, Arnold Townsend, Tajel Shah, and Richard P. Matthews, Deputy City Attorney Jon Givner, and Director of Elections John Arntz.
3. **Announcements.**
Commissioner Tajel Shah presented her three week old daughter, Zareen. The Commission congratulated the Commissioner on the birth.
4. **Public Comment.** *Jane Allen* asked the members to speak into the microphones to be heard more clearly by the audience. *Brent Turner* said that regarding HR 811, the open source community was in dialogue with Congressional and Assembly members requesting open source requirements in HR 811. Mr. Turner handed out information regarding the Secretary of State's top-to-bottom review which he said contained results/interpretations of the security of the voting machines. Mr. Turner characterized these results as "tragic and horrible". *Jennifer Kidder* said that she and her friends welcomed the top-to-bottom review but that it does not cover "secret software" that may be coming from the equipment manufacturer. Ms. Kidder said that "hacking from the outside" was the lesser of what she considered to be the great problems with this equipment.
5. **Special Presentation on Federal Bills That May Impact Voting Rights.** President Meek reported that the speaker for this topic will attend a future meeting.

Public Comment. *David Pilpel* asked that when this item appears on future agendas, that information on the bills be included in the meeting packets.
6. **Greg Wagner, Budget Analyst from the Mayor's Office, will respond to questions from the Commission regarding this year's budget.**

- (a) Why wasn't the DOE given the increase for better facilities and what do we need to do to impress upon the importance of this issue?

Mr. Wagner's Response: There was a provision in the contract (with Sequoia Voting Systems) which included significant monies for capital investment to keep voting machines at the Pier Facility. The uncertainty of what space would be needed, and the non-approval of the contract both happened at budget approval time. Therefore, the DoE submitted its budget request without the \$700,000 to

\$800,000 needed to meet the level of rent contemplated with the Sequoia contract. The City Administrators Office and capital planning staff are aware that this may be a need in the future.

Commissioner Shah said it is possible that the DoE may have to go to the Board for money to cover a hand count. She said that when that happens, she hopes that long-term improved facilities will be a part of the discussion.

Mr. Wagner said that this would be the case.

- (b) Given the state of our current, unanticipated elections situation for 2007-2008, it appears that the City may need to cover additional costs 2007-2008. If a new space is needed to accommodate a hand count, will it be considered a longterm solution or just a one year fix?

President Meek said that *Mr. Wagner's* response to question "a" is appropriate to cover this question as well.

- (c) How was it determined that associates with management roles within the DOE should still be designated as "Clerks" and not given the more appropriate title of "Managers"?

Mr. Wagner's Response: Many competing priorities are weighed during budget discussions when departments are "scraping for money". Upgrading positions can often be a "tough sale" during these times for all departments. Some favorable staffing changes were made after discussions with managers.

Commissioner Townsend said that no matter how badly the City is "scraping" it is never an excuse for underpaying people. People deserve to make what they are earning. In order to run an election, there are certain things that must be accomplished, such as delivery of voting machines to all the precincts. This cannot be accomplished if the vehicles that make that delivery are cut from the budget. The Commissioner said that the people in charge of funding the budget need to know what is involved in running an election.

President Meek said that she was impressed with the small number of staff she saw during a tour of the DoE who were performing a great amount of work, and that what concerns her is the Department be able to retain those good workers with appropriate titles and salaries. If that doesn't happen, she said, the elections will suffer.

Commissioner Shah asked for more detail regarding the position changes that were made with the new budget.

Mr. Wagner responded that one position was upgraded to match others in the series, that changes were made to some IS (Information Systems) positions, and

added a "good deal" of salary and work order money is being work ordered to the CAO. Discussions continue regarding how these changes will work.

Commissioner Shah asked what are the plans regarding making temporary positions permanent?

Mr. Wagner responded that two IS positions were made permanent (this was recommended in the Controller's report two years ago), one administrative position was made permanent, and including the positions being work-ordered to the CAO, the Department is far in excess of where it was, regarding permanent staffing, last year.

Commissioner Yu reminded the Commission and *Mr. Wagner* that there is much institutional memory with the temporary staff and it is important that this knowledge is retained and strengthened.

- (d) Why was the Commission's Secretary position downgraded from full-time to $\frac{3}{4}$ -time? Although the Commission's budget is within the Department's, the Commission should be responsible for defending its own budget. How can the Commission be more integrated into the budget process to defend and manage its own budget?

Mr. Wagner's Response: The position has been retained at three-quarter's time.

President Meek reminded *Mr. Wagner* that the Commission originally requested that the position be 100 per cent funded and that he replied that the possibility of full-time funding was very high. Subsequently, the position was reduced even further to 50%, but was restored to 75%. However, the Commission was not aware of this until recently. *President Meek* asked, "because the Commission's budget is integrated within the Department's budget, how can we function and support our own budget, so that the Director does not have to defend the Commission's budget?"

Mr. Wagner's Response: The Elections Commission is in a unique position because it has Charter status. He suggested that the Commission keep in communication with the Department regarding the budget's status and said that most Commission's do not have full-time dedicated staffing, and depend, as far as he knows, on department staffing for their administrative work.

- (e) Regarding the Controller's Statement on "E", City Controller Edward Harrington issued the following statement on the fiscal impact of Proposition E which reads:

"Should the proposed Charter amendment be adopted, in my opinion, there would be an increased cost of government of approximately \$100,000 per year to provide an Elections Commission secretary and cover the cost of meetings, public notices, and other requirements of a Commission. The provisions which prohibit city

employees from working on election-related tasks, and which require the Sheriff to provide security for ballot materials, would incur a minimum cost of approximately \$542,00 per year for a typical fiscal year with two elections.”

Commissioner Gleason said that when the Elections Commission was set up, what was needed to operate was not discussed. He said that he had just returned from watching the elections in Baja, Mexico, where everyone was given a copy of the Elections Code. Here in San Francisco, the seven member Elections Commission is funded only one copy of the Elections Code, and no operating budget. The Commission is at the mercy of the Elections Department.

Mr. Wagner's Response: The Controller takes a stab when these things go on the ballot and I cannot comment until I've taken a look at what they used for their analysis. Commissioner Gleason's point is well taken.

Public Comment. *Jennifer Kidder* said that a national law regarding a hand count paper ballot system has a provision for counting the ballots at the precinct level as soon as the voting is over and allows the public to watch. *Jade Lai* asked that, whenever possible, polling places be in large areas like schools instead of home garages. *David Pilpel* said that there is a requirement in the Charter that each department head, by the end of August, must either sign a statement saying that their budget is adequate in all respects to meet their department's requirements or not such a statement. Mr. Pilpel asked if the Director intends to send such a statement. *Director Arntz* replied that he had never signed such a statement and that he did send a letter stating the inadequacies of the last budget. However, the Director said he hasn't contemplated his approach for this budget cycle.

7. Director's Report.

Ballot Distribution: The Division is preparing facilities for the elections cycles: 240 Van Ness, Brooks Hall and Pier 29.

Budget/Personnel: The Division is currently in its support mode for all the managers. It is filling all the temporary positions required for the elections.

Campaign Services: The nomination deadline for the November ballot was last Friday. Tomorrow will be the proponent/opponent argument deadline, and next Monday will be the paid argument deadline. The Division has already received a measure for the February election from the Board. The Open House is being planned for the end of September or early October.

Outreach: The Division is now fully staffed with its temporary workers. They are making phone calls and setting up presentations (approximately 100 have already been set). Public Service Announcements (PSAs) have been completed for the media and are on our website. There are plans to send the PSAs to voters who have provided the DoE with their email addresses on their registration cards. This will be the first time the

Department has attempted to communicate with voters by email. The Division is developing a mailer to encourage people to vote.

Publications: This Division has completed its work with the Ballot Simplification Committee. The Digest, that explains the measures on the ballot, has been sent to the typesetter and an early draft of the first of the two-card ballot for November is completed. The Division is working on translations of the ballot and voter guide. The Department of Justice has contacted the DoE for information regarding transliteration of election materials because of San Francisco long history of providing this service to its voters.

Poll Locating and ADA: The Division is identifying polling places constantly, because they change from election to election – former sites become unavailable. Currently, the staff is seeking 74 sites; this number does not include replacements for accessibility. There is a new accessibility website available to voters using the Elections Department website. Sensitivity training of all DoE staff regarding people with disabilities will begin soon and will be handled by this Division.

Pollworkers: The Division is sending out availability letters to former workers. There will be a fifty dollar bonus given to workers who sign up and work all of the next three elections (November, February and June). The bonus will be given with the pollworker pay for the June 2008 election. It is hoped that this will provide incentive that will help the Department retain these workers. Having three elections in such a short amount of time will cause some fatigue, not just in the Department and the voters, but with the people who support the elections, such as the pollworkers.

Technology: The Division has been setting up phones and computers for the arriving temporary staff, and getting the databases ready for their use.

Voter Services: The Division is maintaining the registration database. The current information is the cleanest and most organized in the last eight years. 20,000 new voters are being inputted. Records are being cancelled and activated constantly.

The Ballot Simplification Committee: This session was one of the most challenging due to the numbers of people making statements. This is the first time in five years that all positions (five) on the Committee have been filled. The group volunteers its time and is compensated only with Danish Rolls and coffee in the morning. They go through a process that is very tedious and can be contentious; and provide explanations of the measures that are understandable to a very wide range of voters.

President Meek commended the Director for the pollworker retention plan.

Commissioner Gleason said he was pleased to see that the Ballot Simplification Committee was fully staffed for this election and commended the group as one of the hardest working volunteer committees in the City. He commended the Director for San

Francisco being sought out by the Department of Justice for its expertise regarding transliteration of election information.

Update on securing a voting system for 2007-2008: The Secretary of State (SoS) and Elections Systems and Software's (ES&S) are communicating regarding a test plan for the system for San Francisco in the not too distant future. The Director said that he anticipates that the equipment will face conditions like those that went through the top-to-bottom review. The conditions will probably face more auditing at different points in the process to determine how the equipment is operating compared to a review by the DoE. The Director has informed the President of the Board and the Mayor that the Department is not funded for this extra work.

Public Comment. *Jennifer Kidder* said that she is an advocate for hand count paper ballots and commended the Director for putting information on the DoE website in the "html" format, his advocacy for languages and disabled access for information. *Brent Turner* said he sent a slide show presentation to the Director and that his group, Open Voting Solutions, is in communication with advocacy groups for the disabled and wants the Commission to know that there is a lack of compliance regarding disabled issues with the current voting systems. He urged the Director to cancel the Sequoia Voting Systems RFP because of a report that the company was using slave labor, in the Philippines, to make the machines. *Roger Donaldson* said he was glad to see the DoE doing work to retain good workers and that there will be more audit procedures during the election. He said that the current testing and disclosure of the results of that testing by the SoS is a first. Mr. Donaldson stated that the Sequoia system had "quite a number of issues" during the testing and that this should be a reason to terminate their system's procurement.

Commissioner Matthews asked the Director if the SoS testing was purely performed on DRE, and not paper-based voting. *Director Arntz* replied that the SoS tested paper-based systems for Hart, Inter-Civic, Diebold and Sequoia. The SoS decertified these paper-based systems, then recertified them, putting extra conditions on these systems. He said that part of the conditions for the decertification for the DRE and optical scan were to restart the recertification process, to set it back to "zero" again because the SoS wants to get a clean slate based on the top-to-bottom reviews and the certification reviews which will be performed soon for our system.

David Pilpel said that he had heard rumors that counties might be considering bringing legal action against the SoS regarding the top-to-bottom review, and that the Commission should be kept informed of this possibility. Regarding sending Public Service Announcements (PSAs) to voters by email, Mr. Pilpel suggested to send a link to the PSA instead, and that the DoE should update voters' records if emails are returned unopened.

8. **COMMISSIONER REPORTS.** Report of observations of the Baja State (Mexico) elections on Sunday, August 5, 2007. (Commissioners Gleason and Matthews)

Commissioner Gleason asked that this report be postponed to the next full Commission meeting, September 19, 2007.

9. OLD BUSINESS

- (a) **Discussion and possible action regarding securing a voting system for 2007-2008.** President Meek explained that this item is a continuing one on the agenda to allow Commissioners opportunity to offer comments and/or ideas to help support the Director's actions regarding securing a voting system, and asked the members if there was any discussion on this item. There was none.
- (b) **Discussion on amendments to the Bylaws and creation of a policy to conduct personnel reviews for the Secretary of the Elections Commission and the Director of Elections annually and to determine a formal process for these reviews.** (This item was carried over from the July 16, 2007 meeting.) President Meek informed the Commission that the forms for reviews were online and that the City offers training for performing reviews. She suggested to first set goals and expectations, that there be mid-year check points in case these change and an annual assessment which would take place in May of each year. President Meek added that there is usually a self-assessment. She said that she hoped the bylaw amendment, drafted by Deputy City Attorney Jon Givner and attached to the meeting packet could be voted upon and adopted at the next meeting.

Commissioner Matthews thanked President Meek for the draft and for the appraisal forms and said that he supported the incorporations of the standard City and County Performance Appraisal Report.

Commissioner Shah asked the Commission Secretary and the Elections Director if they were familiar with the forms and had any concerns or questions regarding the procedure.

Director Arntz responded that the evaluation was the same for other City employees and he had no problem with the Commission using it. His concern was that the next year will be a busy one with all the elections, and that he feels that he is evaluated monthly, as well as being evaluated upon the success of each election.

Commissioner Shah said that she has had experience with the City's appraisal process, and has been a recipient of the process. The Commissioner added that the cumbersomeness of it, in many cases, means that it is seldom done. She said she would like to see it be a less protracted process, with focuses around the workplan and the setting of objectives, were those accomplished or not, and why weren't they and what can be done to be successful in reaching them.

President Meek said that she would like to sit down with the Secretary and Director and to get their opinions on how it would work and what kinds of goals the Commission would be evaluating, and that this should follow training on how to do evaluations. She suggested that this may not be something that can be accomplished this year. Within the next month, she said she hopes to make a decision about the timing. *President Meek* said that in the meantime she would put together more structure around the topic and get an official policy that can be voted upon at the next meeting.

Public Comment. *Jennifer Kidder* said she had a comment on item 10(b) which she failed to make and wanted to do so now. Ms. Kidder said that she needed to make clear that her stand on hand counting ballots is "radical, but only radical within the borders of this country."

David Pilpel suggested that the line "at least once" be removed from the bylaws draft amendment since it is under the title "annual review" because "once" is already implied. He said that he agreed with Commissioner Shah's comments that the procedure is cumbersome and that some Commissions do not do an annual review, but they should, and they shouldn't wait until there is a problem. Mr. Pilpel said that the setting of the goals should be an open process. However, the actual evaluation should be in closed session.

10. NEW BUSINESS

- (a) **Discussion and possible action to approve the Elections Commission minutes for July 18, 2007.** Commissioner Hwang MOVED and Commissioner Shah SECONDED to approve the minutes. The Roll Call Vote was UNANIMOUS to APPROVE the minutes with a final check for typos.
- (b) **Discussion and possible action to adopt suggestions from the Budget and Oversight of Public Elections Committee regarding the format, content and publicizing of the November 6, 2007 Election Plan and the post-election assessment of the Plan.** (Committee Chairperson Gleason) Commissioner Gleason said that he plans to update the template and will do so soon. The Committee suggested a more simplified first page of the plan, and directions or pointers to other public documents to be added so that the actual plan does not contain a redundancy of these documents. These changes will be available to the Commission at the next meeting.

Public Comment. *David Pilpel* said that the three basic requirements of the Commission are: to employ a director, adopt a plan and access the implementation of the plan as it relates to fair, free and functional elections. He said the plan should be as brief as possible, referencing other documents that already exist. If the Commission identifies issues that it would like to be able to assess both quantitatively and qualitatively during the election, the

Director should be called upon to report on those with an opportunity for public input.

- (c) **Discussion and possible action to send a letter to the Board of Supervisors and the Mayor, in opposition of approving the appointment of Hans von Spakovsky to the Federal Elections Commission.** (This item was carried over from the July 16, 2007 meeting so that Commissioner Townsend, who requested this item be on the agenda, could provide input in the discussion). Commissioner Townsend explained that Mr. Von Spakovsky was placed on the Commission by President Bush during a recess and that he can serve for one year until he is approved for a permanent appointment. Senator Feinstein and others have said that this particular appointment will be difficult. Commissioner Townsend stated that Mr. Von Spakovsky has spent much of his career limiting the rights of minorities to vote, one example of which is that he single handedly created the concept of voter identification cards in Georgia and Arizona. A federal judge struck down the I.D. cards, likening the plan to "Jim Crow" polling tactics. The Commissioner said that "90% of the voter fraud in this country has nothing to do with electronic equipment, but has everything to do with racism. {Votes are} not being stolen because we don't have open source. They were stolen before voting was ever computerized and continues to be so. Hand counts are not a panacea, and hand counts have been fraudulent and stolen since the beginning of time and they probably did it to Caesar and the Roman Senate".

Commissioner Townsend MOVED and Commissioner Shah SECOND the item.

Commissioner Gleason said that he had never heard of this nominee until he was brought to his attention by Commissioner Townsend. After further investigation, Commissioner Gleason said he became disturbed by the nominee's opinions regarding provisional ballots, and how to count them, which are counter to what California does.

Public Comment. *Jennifer Kidder* said that it was "appalling" to her to hear the ridicule she had just witnessed toward the voting rights movement and the elections integrity movement. She said the voting rights of people of color and people of lower economic status should be protected. *Brent Turner* said he applauds Commissioner Townsend's objection to the appointment of Han von Spakovsky. *Jade Lai* said election machines can be "used as a tool for their evil purposes" and that she approves of sending the letter. *David Pilpel* said that he originally had concerns about the Commission getting into the "letter writing business" but was now absolutely convinced after hearing Commissioner Townsend's comments that the letter should be sent.

The Roll Call Vote was UNANIMOUS to send a letter to the Board of Supervisors and the Mayor to oppose the appointment of Hans von Spakovsky.

- (d) **Discussion and possible action to submit a request to the Board of Supervisors for a waiver allowing certain City employees or officers to work on the November 6, 2007 Municipal Election.** Commissioner Townsend MOVED and Commissioner Hwang SECONDED this item.

Public Comment. *David Pilpel* said that an assessment of the number of City employees or officers the DoE required for the November 2007 election should be part of the Election Plan review after the election.

The Roll Call Vote was UNANIMOUS to submit the waiver to the Board of Supervisors.

- (e) **Discussion and possible action to submit an Alternative Transportation and Security Plan to the Board of Supervisors because the Sheriff will be a candidate in the November 6, 2007 Municipal Election.** Commissioner Townsend MOVED and Commissioner Yu SECONDED this item.

Public Comment. *David Pilpel* stated that the document does not read as a plan but as a process by which the incumbent would be removed from the process and that Chief Waters would develop a plan. He added that at least one of the challengers to the Sheriffs' office is a deputy sheriff and precautions should be included to remove that individual and any others who might be employees of the Sheriffs Department from the process. Additionally, Mr. Pilpel said that employees be cautioned to not support or oppose any candidate and just provide the services that are required.

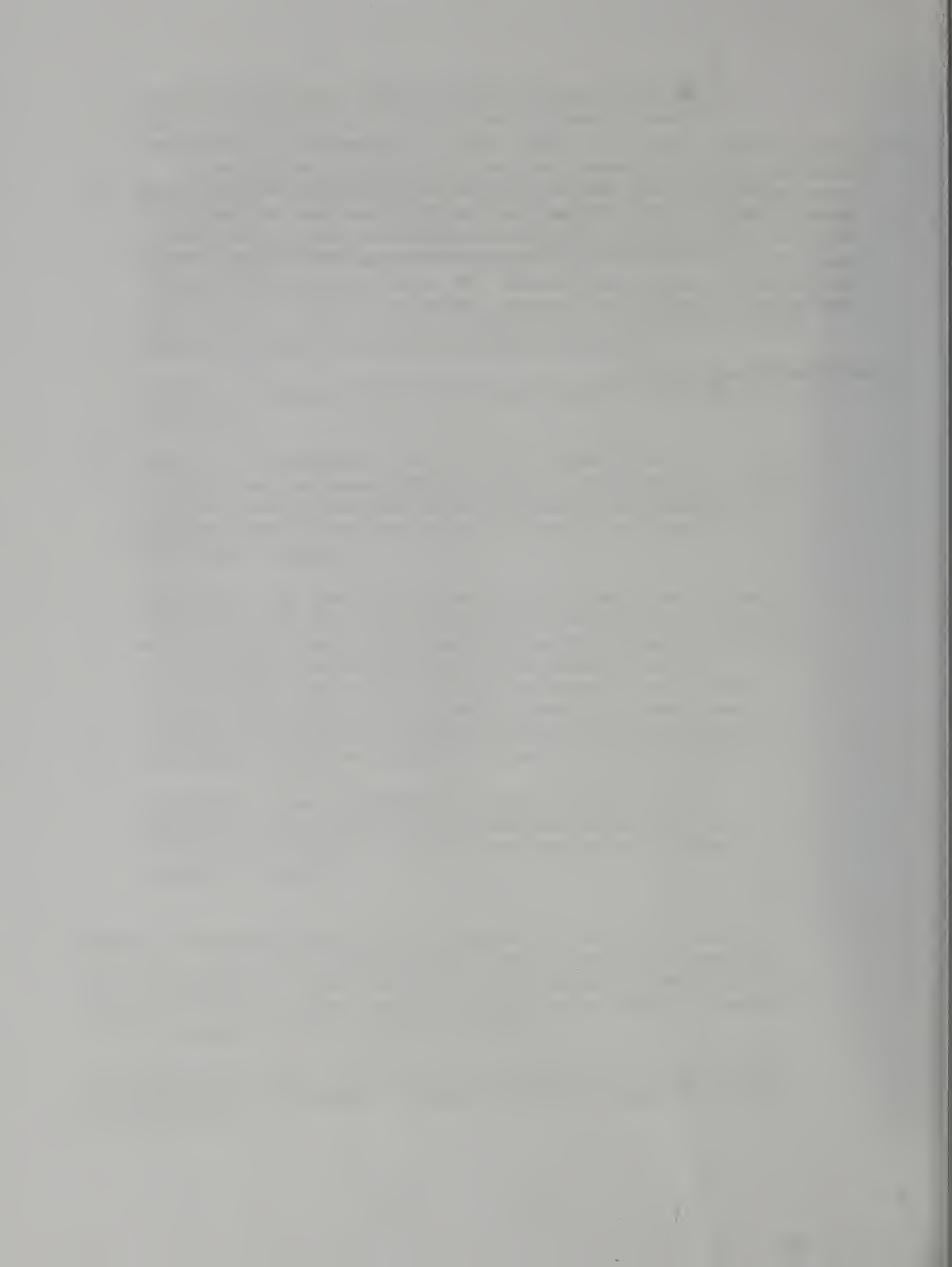
A Roll Call Vote was UNANIMOUS to APPROVE the plan with the adjustment that any employees of the Sheriff's Department who are candidates in the election be removed from participation in activities regarding the election.

11. **Discussion regarding items for future agendas.** *Commissioner Gleason* passed out a memo with a draft policy for Commissioner activities, observations and roles on election day which was created by the Budget and Oversight of Public Elections Committee he chairs. He asked that there be discussion and possible action on the policy at the next Commission meeting.

Announcements. *Commissioner Townsend* announced that on Saturday, August 25, 2007, there will be a backpack giveaway for school students at Ella Hill Hutch Community Center.

12. **Public Comment.** *Brent Turner* said he wanted to read into the record a note by David Wagner from UC Berkeley, issued August 2, 2007, as part of the top-to-bottom review: *In the end, our report strikes a careful balance between the public's interest in transparency into whether their voting systems are secure and the public's interest is being protected against the risks due to the disclosure of those flaws. We hope that future voting systems, better engineered than today's systems, will eliminate the need for such trade offs.* Mr. Turner said that the Secretary of State said that she hopes for open source systems.

ADJOURNMENT was at 9:28 pm.



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9/19/07

City and County of San Francisco
Elections Commission
Approved: October 17, 2007
Minutes of the Meeting at City Hall Room 408
September 19, 2007

DOCUMENTS DEPT.

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1. **CALL TO ORDER.** President Jennifer Meek called the meeting to order at 7:02 pm.
2. **ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Winnie Yu, Arnold Townsend, Tajel Shah, and Richard P. Matthews, Deputy City Attorney Jon Givner, and Director of Elections John Arntz.
3. **Announcements.**
President Meek announced that Commissioner Victor Hwang has resigned and that the appointing authority for the seat is searching for a replacement.
4. **Public Comment.** *Danny Swarzman*, of Open Voting Solutions, Inc., said that his group's mission is for elections to use open source software. *Jade Lai* said the last Elections Commission meeting had been stressful and that she wants to correct a misunderstanding. She said that the public and the Commission are passionate about the right to vote, and honest, accurate, verifiable votes. (Ms. Lai provided the Commission with a copy of her comments which are attached to these minutes.)
5. **Director's Report.**
Ballot Distribution: The generic ballots have arrived, and are being organized to be used at the early voting counter at City Hall. The Division is currently examining the test ballots. Staff is being hired to handle the larger shipments of ballots that will be arriving at 240 Van within the next two weeks.

Budget/Personnel: The Division is currently working on the next fiscal year's budget, and the nine month report to the Controller's Office on expenditures since July 1, 2007. Temporary employees are being brought in, and hours are being tracked according to the procedures code in the DoE manual. The tracking is important for reimbursement from the state for the absentee ballot program and for budget forecasting purposes.

Campaign Services: Guides for the February Primary election are being prepared. Open House will be next month. The training for the Phone Bank staff starts next week. The Phone Bank will work with the Mayor's "311" program and it is hoped this cooperation will lighten the load of the DoE.

Outreach: The Division is preparing a mailing regarding Ranked Choice Voting which will go out next week in English, Chinese and Spanish to low voter turn out

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areas, and to new voters. Outreach has attended 120 events since August for the upcoming election.

Publications: The Voter Guide is now on line – this is ten days earlier than expected. The guides in Spanish and Chinese are now in production. Ballots have been formatted and are being printed.

Poll Locating and ADA: The Division is constantly identifying new polling sites. A primary focus is to replace sites that are inaccessible with those that are.

Pollworkers: The Division is securing parking for the inspectors who will be taking classes to work on election day. Currently, 62 percent of the inspectors and clerks the DoE needed have been hired and assigned to polling sites. These numbers include: 582 Chinese language and 188 Spanish language speaking pollworkers. The High School workers recruitment has begun with 28 presentations completed. The pollworker manual is expected to be on line by Friday. Clerk training classes begin October 5, FED (Field Election Deputy) training classes start in two weeks – with 46 FEDs hired already. The training program is a power point presentation and well organized. The Director said that it's a wonderful example of what staff is able to do between elections and it demonstrates why year round staffing is so important.

Technology: The Division is working on the canvassing database in Access instead of a Excel spreadsheet because of the large amount of data needed to be input. Permanent Absentee files are being prepared so that the ballots can be mailed out on time. And this division has been setting up phones and computers for the arriving temporary staff, and getting the databases ready for their use.

Voter Services: The Division is preparing the generic ballots for early voting. Overseas ballots to military personnel (1,863 ballots so far) have been sent, a petition for the February election has been certified, a review for recall of the Supervisor for District 1 was found to have insufficient signatures to qualify for the ballot.

Update on securing a voting system for 2007-2008: The Secretary of State (SoS) sent a letter to Elections Systems and Software's (ES&S) regarding certification of their system for use in San Francisco. There has been no response from ES&S yet. The Director said he plans to respond to the SoS's letter shortly. The SoS has granted a conditional certification, however there are changes. These conditions include that no ballots can be tabulated at the polling place, but must be brought back to City Hall and visually inspected to assure the proper writing device was used by the voter. This also applies to every Absentee Ballot. If the wrong device was used, the ballots will have to be re-made. The manual tally after the election has been increased from 1% to 10%. The real challenge will be to accomplish all this within the 28 day window, mandated by law, after the election. A 25% manual tally will be required for all Absentee Ballots. The AutoMARK

machines sold by ES&S to five California Counties, including San Francisco, had not undergone federal and state review at the time they were last used. The SoS will assess penalties on SoS for selling the uncertified equipment. The AutoMARKs cannot be used, and Contra Costa and Sacramento counties have offered to let the five counties use their certified machines for the November election because these counties will not be conducting countywide elections this November.

The Optical Scanners (Eagles) at the polling places will be programmed to note over and under-votes so that the voter will have the opportunity to correct his/her ballot. However, the results of the votes taken into the Eagles will not be counted. The ballot results will not be reported until they are counted in the IV-C counters at City Hall. On election night, the only ballots reported will be the ballots that came in before election day – those are the early voting and absentee votes.

Public Comment. *David Pilpel* commended the DoE for dealing as best as it can under the circumstances and asked that all information be released as soon as possible to the public including the costs in temporary staff salaries. *Steven Hill* said it was good to hear something from the SoS. However, what the SoS has developed is very difficult for the DoE. Mr. Hill said that information from the cartridges from the Eagles should be released as preliminary results. *Brent Turner* informed the Commission about a “Black Box Voting” lawsuit in Arizona and offered to forward the information to the Commission and commended the Commission for its resolution in favor of open source in election systems.

President Meek asked the Director if the City could release preliminary results on election night. Director Arntz said that he could ask, but that the wording of the memo seems to suggest that this cannot be allowed. However, the Director said he could have that conversation with the SoS.

Chandra Friese said that the results from the Eagles should be allowed. She said that New Hampshire, where 3600 votes are cast in precincts on election night, has the results from complex ballots done and reported on election night. She suggested that all the votes be counted by hand at the precincts, with the help of the League of Women Voters and other volunteers on election night. *Sacha Ielmorini* commented that a split shift for the pollworkers would be a good idea.

6. **Commissioner’s Reports.** Commissioners Gerard Gleason and Richard P. Matthews made a power point presentation of their experiences observing the Baja State (Mexico) elections on Sunday, August 5, 2007.
7. **COMMITTEE REPORT. Discussion and possible action regarding the Budget and Oversight of Public Elections Committee’s proposed policy regarding Elections Commissioner Duties on Election Day.** Committee Chairperson Gleason reviewed the Committee’s discussion on this topic and presented the Proposed Policy Regarding Commissioner Duties on Election Day to the full

Commission. Commissioner Gleason summarized the Committee's findings and reported that there is no actual assigned duty that is mandatory for Commissioners, but that Commissioners are allowed to fill various roles, if they feel inclined to do so. He reminded members that if they work as pollworkers, they are working under the direction of the Elections Department during that assignment on election day. The primary focus is to serve the voters of that particular precinct on that day.

Commissioner Gleason MOVED and Commissioner Townsend SECONDED adoption of the Committee's recommended policy. President Meek said that she agreed with the policy and that Commissioners should look at the entire period around an election when making their observances. A Roll Call Vote to adopt the proposed policy was UNANIMOUS.

8. **OLD BUSINESS**

- (a) **Discussion and possible action regarding securing a voting system for 2007-2008.** President Meek reminded the Commission that this is a continuing item for meetings and asked if there were suggestions from the members. President Meek suggested that the Commission might contact the Secretary of State's Office (SoS), to push the Commission's view and suggest the manual tally requirement be lessened. Commissioner Matthews asked the Director if this action would be useful. Director Arntz replied that he believes the SoS believes strongly in the numbers she has relayed in her memo.

Commissioner Matthews asked the Director if it would be harmful to San Francisco if the Commission made one last request to lower the manual tally numbers and to permit the unofficial use of the results gathered in the precinct Optec (Eagle) machines on election day. Director Arntz replied that he did not know.

Commissioner Shah asked the Director if he intended to negotiate the manual tally percentages with the SoS. Director Arntz said that he is taking the letter at face value and not looking to make any changes. He said that a conversation regarding the release of preliminary results might be a primary objective. Commissioner Shah asked the Director if he will be communicating to the SoS the consequences of their memo. Director Arntz replied affirmatively.

Commissioner Matthews said that he supports the Commission contacting the SoS on the two issues of the percentages of the hand tally and the release of results of the Optech machines.

Director Arntz suggested that the Commission not rely entirely on his report regarding the SoS's memo, but read the actual memo (which the Director will

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The first of the year was a very successful one for the
company. The sales were very good and the profits were
very high. The company was very happy and the
employees were very satisfied.

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employees were very satisfied.

The seventh of the year was also a very successful one for the
company. The sales were very good and the profits were
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employees were very satisfied.

forward to the Commission after this meeting), before making a decision regarding what action the Commission will take.

Commissioner Matthews MOVED that the Commission authorize President Meek to contact the SoS on the two issues mentioned, if, after reading the memo, she feels it necessary. Commissioner Gleason SECONDED this MOTION.

Commissioner Townsend said that he would like to see the memo before he votes.

Public Comment. *An unidentified speaker* requested that the Commission make the letter from the SoS public as soon as possible. *Brent Turner* said that he and his group are hopeful that the DoE will get the monies necessary to accomplish what the SoS is requiring. He warned that quick election results were really media-driven. *Sacha Ielmorini* requested that all memos and letters on this topic be posted to the DoE website in a manner easily accessible to the public and that a new RFP be sought for open source voting machines. *Steven Hill* suggested that the action of the SoS, to not allow preliminary results from the Optechs on election night, was punitive. The Roll Call Vote was: Gleason-Yes, Matthews-Yes, Shah-Yes, Yu-Yes, Townsend-No, Meek-Yes. The Motion PASSED 5 to 1.

- (b) **Discussion and possible action to adopt an amendment to the Bylaws to conduct annual performance reviews for the Secretary of the Elections Commission and the Director of Elections.** Commissioner Shah MOVED and Commissioner Yu SECONDED this item for discussion. A Roll Call Vote was UNANIMOUS to accept the Bylaws Amendment.
- (c) **Discussion and possible action regarding timing, structure and official policy for annual performance reviews for the Secretary of the Elections Commission and the Director of Elections.** Tabled at the Call of the Chair.
- (d) **Discussion and possible action to adopt suggestions from the Budget and Oversight of Public Elections Committee regarding the format, content and publicizing of the November 6, 2007 Election Plan and the post-election assessment of the Plan.** Commissioner Gleason referred to the re-worked plan as one that does not change any of the material submitted by the Department, but a streamlining of the first page introduction and, pages 3, 6 and 7 which have boxes for follow up of the evaluation. Commissioner Gleason said that the tracking of the ballot, as a public disclosure, has been included. This is an explanation about how ballots are issued and what happens to them and comes from the Pollworker training guide, and may need some minor reworking. Commissioner Matthews invited non-members of the Committee to let him know if they have suggestions to

make the information more visible, more concise, accessible and comprehensible.

President Meek thanked the BOPEC for its work on the Election Plan and asked all Commissioners to review it and offer suggestions. She added that this plan will probably not be used until June or November of next year.

9. **Discussion and possible action to approve the Elections Commission minutes for August 15, 2007.** Commissioner Matthews MOVED and Commissioner Shah SECONDED approval of these minutes. The Roll Call Vote was UNANIMOUS to approve the minutes.
10. **Discussion regarding items for future agendas.** Commissioner Shah announced that she will not be attending the October Commission meeting. President Meek asked members to send her their ideas about how to assess the election.

ADJOURNMENT at 9:09 pm.

STATEMENTS SUBMITTED BY PUBLIC SPEAKERS

From: Sacha Ielmorini

I understand that both a hand count or a machine count costs the same - \$1 million. Maybe we should consider a straight hand count.

I urge the Department of Elections and the Elections Commission not to be alarmists when speaking to the press and public, and to use the publicity from this to educate voters and encourage them to participate in our democracy by being pollworkers, and/or helping to count votes.

Also, as a pollworker (inspector) in past elections, I would like to see split shifts for pollworkers, possibly professionals working 9-5 will do evening shifts.

Activists want to help the department.

From: Jade Lai
San Francisco, CA 94117
September 19, 2007

Good Evening Election Department Commissioners,

Our last meeting was extremely stressful and I am here this evening to try to heal the rift which I see as a misunderstanding.

I wish to state that I believe that we, the Commission and the Public, are here, at great personal sacrifice, because we believe passionately that our enfranchisement is our most valuable and cherished right. I believe that we share the mission of securing honest, accurate and verifiable elections for all. I believe that we are here to help that process along as much as we can.

It may be true, or even probably true, that as you stated, Commissioner Townsend, that 90% of the injustices done are caused by unfair practices that have nothing to do with electronic voting systems. But that 10% is extremely important, capable of changing the outcomes of presidential elections thereby affecting and forming domestic and foreign policies, and the accompanying appointments that affect us all for decades to come! The impact cannot be minimized. The threat of corporate control over elections cannot be ignored, either physically through secret code manipulation of the systems by the dishonest or by financial control through corporate contributions, and the privatization of our election systems. Remember what happened in Florida and Ohio! Imagine how different our nation and the world would be now had this great tragedy not befallen us due to our naivety and lack of vigilance! We agree that old time style injustices (as with the Jena 6) and contemporary injustices must be fought, and fought hard. Securing reliable and honest voting systems is key. Activism is another. Let's try to work together for the common good.

I think that under the present circumstances, prudence require the implementation of open source voting systems and or hand counting.

Sadly, but realistically,

Jade Lai

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the transparency and accountability of the organization. This section also outlines the specific procedures for recording and verifying financial data.

2. The second part of the document addresses the role of the audit committee in overseeing the financial reporting process. It details the committee's responsibilities, including reviewing the financial statements, assessing the effectiveness of internal controls, and ensuring compliance with applicable laws and regulations. The committee is also responsible for reporting its findings to the board of directors.

3. The third part of the document focuses on the importance of internal controls in preventing and detecting errors and fraud. It describes the various types of controls, such as segregation of duties, authorization requirements, and reconciliation procedures, and explains how they are implemented and monitored. This section also discusses the role of management in establishing and maintaining a strong control environment.

4. The fourth part of the document discusses the importance of communication and collaboration in the financial reporting process. It emphasizes the need for clear and timely communication between all parties involved, including management, the audit committee, and external auditors. This section also outlines the specific communication protocols and reporting requirements.

5. The fifth part of the document discusses the importance of ongoing monitoring and improvement of the financial reporting process. It emphasizes the need for regular reviews and assessments of the process, as well as the implementation of corrective actions when necessary. This section also discusses the role of management in ensuring that the process remains up-to-date and effective.



ELECTIONS COMMISSION
City and County of San Francisco

Jennifer Meek, President
Arnold Townsend, Vice President
Gerard Gleason
Richard P. Matthews
Michael Mendelson
Tajel Shah

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

SPECIAL MEETING

Elections Commission Meeting
Wednesday, October 3, 2007 at 6:00 pm
City Hall Room 421

09-27-07P03:57 RCV

ORDER OF BUSINESS

1. **CALL TO ORDER**

DOCUMENTS DEPT

2. **ROLL CALL**

SEP 27 2007

3. **FLAG SALUTE**

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4. **Public comment** on any issue within the Elections Commission's general jurisdiction

5. **A representative from the Secretary of State's Office has been invited to explain requirements for the November 6, 2007 Municipal Election.**

6. **A representative from ES&S has been invited explain their participation in the November 6, 2007 Municipal Election**

7. **Discussion and possible action to adopt the November 6, 2007 Election Plan.**

8. **Announcements**

ADJOURNMENT

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Special

Disability Access

The Elections Commission meeting will be held in Room 421, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA. The Commission meeting room is wheelchair accessible. The closest accessible BART station is the Civic Center Station at United Nations Plaza and Market Street. Accessible MUNI lines serving this location are: #42 Downtown Loop, and #71 Haight/Noriega and the F Line to Market and Van Ness and the Metro Stations at Van Ness and Market and at Civic Center. For information about MUNI accessible services call (415) 923-6142. There is accessible curbside parking adjacent to City Hall on Grove Street and Van Ness Avenue and in the vicinity of the Veterans Building at 401 Van Ness Avenue adjacent to Davies Hall and the War Memorial Complex.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact The Elections Office at (415) 554- 4375 or our TDD at (415) 554-4386 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals. Individuals with chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-6060.

Know your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7724; FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

Materials contained in the Commission packets for meetings is available for inspection at the Elections Department, City Hall Room 48, in the Commission's Public Binder, no later than 72 hours prior to meetings.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300, fax (415) 581-2317; web site at www.sfgov.org/ethics.

ELECTIONS COMMISSION
City and County of San Francisco



Jennifer Meek, President
Arnold Townsend, Vice President
Gerard Gleason
Richard P. Matthews
Tajel Shah
Winnie Yu

John Arntz
Director of Election

Shirley Rodriques
Commission Secretary

**AMENDED AGENDA FOR
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8. **Discussion and possible action to approve the letter or other communication to the Secretary of State's Office regarding Commission concerns about the conditional ES&S certification**

9. **Discussion and possible action to adopt the November 6, 2007 Election Plan.**

ADJOURNMENT



Page 1
of 1

10-10-10

Memorandum

TO : [illegible]
FROM : [illegible]
SUBJECT : [illegible]

1. [illegible]
2. [illegible]
3. [illegible]

4. [illegible]
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DEBRA BOWEN | SECRETARY OF STATE | STATE OF CALIFORNIA

1500 11th Street, 6th Floor | Sacramento, CA 95814 | Tel (916) 653-7244 | Fax (916) 653-4620 | www.sos.ca.gov

September 14, 2007

Mr. Steven M. Pearson
Vice President, Certification
Election Systems & Software
11208 John Galt Boulevard
Omaha, NE 68137

Dear Mr. Pearson:

On May 9, I declined the request from Elections Systems & Software (ES&S) to administratively recertify the ES&S voting system used to conduct Ranked Choice Voting (RCV) elections in San Francisco through December 31, 2008. This system is comprised of the following components:

- Optech Eagle, APS version 1.52, HPS version 1.30
- Optech IV-C version 1.08(c)
- Unity: EDM, version 7.2.1.3; HPM, version 5.0.3.2; ERM, version 6.4.3.2b; Audit Manager, version 7.0.2.0; Optech Image Manager, version 3.2.0.0; DAM, version 5.0.3.0
- AutoMARK VAT, version 1.0
- AIMS, version 1.09

As I noted when I declined ES&S's request, the system had already received three certifications on either a "one-time" or "one final time" basis to permit it to be used in California, despite the fact that it has never even been federally qualified to the federal voting system standards.

More specifically:

- This voting system was first certified on April 30, 2004, for use only in San Francisco's November 2004 election. As a condition of that certification, ES&S was required to submit the system for limited federal review by May 10, 2004. Independent Testing Authorities (ITAs) Wyle and Ciber conducted that limited federal testing, and state certification testing was conducted simultaneously. The testing included a limited source-code review and functional testing to verify the correct application of the RCV algorithm. Based on that testing, the system was recertified on July 12, 2004, to acknowledge the completion of the testing requirement. The restriction to use the system on a one-time only basis in San Francisco's November 2004 Election remained in place.

- After a public hearing on February 17, 2005, the Secretary of State's Elections Division Chief re-certified the system on March 7, 2005, to permit the RCV system to be used only through December 31, 2005.
- On August 3, 2006, the prior Secretary of State received an application from ES&S for re-certification of the RCV system, requesting approval for "one-time, final use" of the system in the November 2006 election. In consideration of this application, the Secretary's Office of Voting System Technology Assessment (OVSTA) staff and the state consultants conducted testing of the system in Omaha in August 2006, and again in September 2006. Several anomalies were observed during that testing that were detailed in the Secretary of State's staff report from the examination of the system. Finally, because ES&S had requested only one-time approval, a volume test was not conducted on this system.
- On October 25, 2006, then-Secretary of State McPherson granted one-time approval to this RCV system for use only in the November 2006 General Election, with the clear understanding that there would be no more extensions of certification for this system.

When I declined to administratively re-certify the system in May, I informed you that ES&S was invited to resubmit its request should the base Unity/Optech Eagle/Optech IV-C system successfully complete the top-to-bottom review of California's voting systems.

Subsequently, ES&S decided not to submit the system used in San Francisco to the top-to-bottom review process. This decision by ES&S with respect to the Optech Eagle and its related components jeopardizes the ability of the City and County of San Francisco to conduct its scheduled local election in November 2007 with anything other than a 100% manual tally process.

Based on tests conducted by the Secretary of State's office in 2006, the ES&S Optech Eagle and related components have a number of problems in accurately tallying the votes that simply cannot be overlooked. According to a report issued by this office on October 11, 2006:

"...several of the test ballots were not properly read by the Optech III-P Eagle. Although the machine was cleaned twice and re-calibrated, it kept giving the same results with the same ballots. While the ballots had been marked using the pen supplied by ES&S for that purpose, it was finally determined that these were the wrong pens for use with the wrong ink for the Optech Eagle to properly read (The pens were recommended by ES&S for the Optech IV-C M400). The incident served to underscore the essential vulnerability of the older Eagle tabulator when ballots are marked with a non-approved pen, as any voter might do in the polling place, despite instructions to the contrary."

Documented evidence retained from that testing clearly illustrates this problem with the Eagle, as well as, to a lesser degree, the Optech IV-C, which is capable of reading a slightly broader but still limited range of inks.

The October 11, 2006, report that was used as the basis for granting the one-time approval on October 25, 2006, stated:

"The Secretary of State reserves the right, with reasonable notice to the Vendor and to the counties using any of the voting systems, to modify the Procedures used with any of the voting systems and to impose additional requirements with respect to the use of any of the systems if the Secretary of State determines that such modifications or additions are necessary to enhance the accuracy, reliability, or security of any of the voting systems."

It is unfortunate that rather than alter its system to address the problems noted above, ES&S has decided to engage in a chess match at the expense of the voters of San Francisco, their elected representatives, their candidates for office, as well as the proponents and opponents of local charter amendments that will be on the November 2007 ballot.

It is my responsibility to ensure that elections in California are secure, accurate, reliable, and accessible. It is also my goal to have the required accurate tallies completed in a reasonable period of time. Based on the findings of my Post-Election Audit Standards Working Group and a number of related studies that have found it is possible to ensure the accuracy of elections results without requiring a 100% manual count of the ballots, I will agree to administratively re-certify the ES&S RCV voting system for the November 2007 election under the following conditions:

- This re-certification of the RCV voting system will expire on November 30, 2007. The expiration applies only to use of the voting system components to cast and tally votes in an RCV election. Use of the components used in a non-RCV election will be governed by the existing certification requirements imposed on ES&S.
- San Francisco elections officials must include a clear written notice to mail ballot voters that details the marking implements that must be used to ensure that the ballot is accurately read. The written notice must also clearly warn the voters that if they use an alternate marking implement, the votes on the ballot may not be accurately counted.
- San Francisco elections officials must post in each voting booth a clear written notice that details the marking implements that must be used to ensure that the ballot is accurately read. The written notice must also clearly warn the voters that if they use an alternate marking implement, the votes marked on the ballot may not be correctly counted.
- San Francisco elections officials must post in each voting booth a clear written notice that advises voters to check the choices they have marked on their ballots to ensure they have not unintentionally overvoted or undervoted in any contest.
- San Francisco poll workers are required to present each voter with an authorized ballot-marking implement and to caution each voter that not using the implement could result in their ballot not being correctly counted.

- All RCV contests must be printed on a ballot sheet that does not include any non-RCV contests.
- The Eagles may not be used to tally results in the precinct that are uploaded or combined with any official or unofficial election results. The Eagles may be used in the precinct to provide voters with overvote or undervote warnings, and for securely storing ballots so they can be returned to the central office for tabulation on the Optech IV-C central tabulator.
- San Francisco elections officials must visually inspect all ballots prior to scanning and tabulation by the Optech IV-C central tabulator. Any ballots marked in anything other than a Number 2 pencil, black ink or dark blue ink must be duplicated in accordance with EC §15210 prior to tabulation.
- The IV-C must be programmed to outstack all RCV ballots that have an undervote in any rank/choice of any contest, (i.e., where the voter is allowed to indicate three choices for a single office), the IV-C must be programmed to outstack all RCV ballots on which the IV-C detects fewer than three choices for the office.
- All RCV ballots with races involving three or more candidates, including qualified write-in candidates, that are outstacked for an undervote that have valid votes marked on the ballot must be manually duplicated in accordance with EC §15210 with an authorized marking device, and then tabulated.
- For all ballots cast at the precinct that are tabulated on the Optech IV-C, San Francisco must conduct a manual tally of all ballots in 10% of the precincts in accordance with the procedures in EC §15360. As noted above, the Optech IV-C is capable of reading a limited but slightly broader range of inks than the Eagle. Races in which there is only one candidate for the office may be excluded from all manual tally requirements.
- San Francisco elections officials must conduct a manual tally of the 25% of all absentee (vote-by-mail) ballots cast.
- If there are discrepancies between the machine and manual counts, San Francisco elections officials must document and disclose those discrepancies and take the following steps to resolve the discrepancies:
 - The percentage of discrepancies found in the manual count sample for a given race must be presumed to exist in approximately the same proportion in the remaining ballots cast in the race.
 - To calculate the discrepancy percentage for each race, compare the total number of discrepancies found in the manual count sample for the race to the total ballots cast for that race in the manual count sample.
 - If the discrepancy percentage represents 10% (one-tenth) of the margin of victory for that race, then additional precincts must be manually counted for that race. This requirement is designed to guard against the possibility that the percentage of discrepancies in the remaining ballots is higher than that found in the manual count sample.

- Additional precincts must be counted in randomly sampled blocks of 5% until the total number of discrepancies presumed to exist – re-calculated using the method above – is smaller than 10% of the overall margin of victory in that race tallied electronically.
- For multi-winner elections, the margin of victory is the difference between the candidate who had just enough votes to win a seat and the next candidate below. For example, for a race with three open seats, the margin of victory would be the difference between the third and fourth place candidates.
- For RCV elections, elections officials must compare the discrepancy percentage to both the margin of victory and also the margin between the last place and second to last place candidates. If the discrepancy percentage represents 10% (one-tenth) of the margin of victory or the margin between the last and second to last place candidates, then additional precincts must be manually counted for that race according to the above steps. The purpose of checking the margin between the last and second to last place candidates is to ensure the last place candidate was properly called, since the ballots cast for that candidate will be taken and the second place votes on those ballots will be distributed to the remaining candidates in accordance with the RCV regulations.
- San Francisco elections officials must adopt procedures, to be approved by the Secretary of State, to reconcile any discrepancies between the electronic tally of ballots and the increased manual tally results.
- Prior to Election Day, San Francisco must keep all voting equipment and ballots under its control, in a secure location at all times, and subject to procedures that prohibit access to the equipment or ballots without proper authorization. On Election Day, when the voting equipment and ballots are under the control of poll workers, San Francisco must have adopted chain of custody procedures to ensure that only authorized personnel have access to the equipment and materials. San Francisco must adopt a security plan, to be approved by the Secretary of State, for its equipment, ballot handling, and other related issues.
- The vendor, ES&S, and San Francisco shall record and document all problems and malfunctions with the Eagles and Optech IV-C, whether and how the issues were resolved, why any issues were not resolved, and provide a report to the Secretary of State that is signed by both ES&S and the San Francisco City Clerk or Director of Elections by November 30, 2007.
- The vendor, ES&S, is required to reimburse San Francisco for any and all additional costs associated with complying with these conditions, including the cost to print warning notices to the voters, the cost to produce extra ballots necessary for duplication and any costs associated with complying with the requirements imposed by this administrative re-certification.

The requirements outlined above are intended to do what ES&S has to date declined to do – ensure that the ballots of San Francisco's voters are accurately tallied. The requirements rely on increasing the levels of review if it is apparent that ballots are not

Mr. Steven M. Pearson
September 14, 2007
Page 6

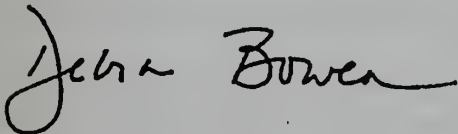
being read accurately and that the election results will not be correctly reported. These increased manual auditing requirements will increase the likelihood that any inaccuracy will be detected and rectified.

With this enhanced check on the accuracy of the vote count, this short-term administrative re-certification of the voting system will permit San Francisco to conduct its upcoming municipal election without undue disruption while it completes the process of replacing this obsolete equipment.

I would be remiss if I didn't point out once again how troubled I continue to be by ES&S's approach to both the voters of this state and the voting system certification process in California. The company's refusal to take seriously the problems involving the accuracy of its voting system used by San Francisco and the city's voters is just the latest example. Earlier this year, ES&S refused to submit one of its voting systems, the InkaVote Plus system used by Los Angeles County, in a timely manner to the top-to-bottom review of California's voting systems. Today, ES&S finally delivered the last piece of equipment required to begin the review that should have been complete two months ago. ES&S also has yet to provide completed certification applications that will allow me to begin certification review of its upgraded Unity/AutoMARK and Ranked Choice Voting systems, even though the company is depending on securing certification in light of its choice not to submit the currently certified Unity/AutoMARK system to the top-to-bottom review. Further, it appears the company sold nearly 1,000 voting machines to five California counties last year without notifying this agency, as required by law, that it had made changes in the hardware. Finally, ES&S has given San Francisco no alternative but to continue using a voting system that may not accurately tally votes because the system consistently fails to read ballots that are marked with popular ink types.

If you have any questions or concerns, please contact my staff at (916) 653-7244.

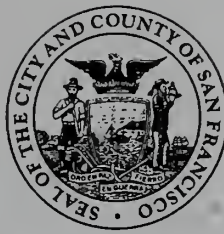
Sincerely,



Debra Bowen
Secretary of State

DB:elg:bm:lf

cc: The Honorable Gavin Newsom
Board of Supervisors, City and County of San Francisco
John Arntz, Director of Elections



**Election Plan
City and County of San Francisco**

*Consolidated General Election
November 7, 2006*

This Elections Plan is submitted to comply with the City & County of San Francisco Charter Section 13.105

An Elections Commission shall be established to oversee all public federal, state, district and municipal elections in the City and County. The Commission shall set general policies for the Department of Elections and shall be responsible for the proper administration of the general practices of the Department, subject to the budgetary and fiscal provisions of this Charter. These duties shall include but not be limited to approving written plans prior to each election, submitted by the Director of Elections, detailing the policies, procedures, and personnel that will be used to conduct the election as well as an assessment of how well the plan succeeded in carrying out a free, fair and functional election.

The Elections Plan is intended to provide an open and transparent documentation of procedures and operations to be followed by the Department of Elections for the preparation and conduct of the upcoming election. to the extent possible, care has been taken to document and disclose all possible procedures and operations that impact handling of voter registration, ballot handling and vote tabulation, however it is acknowledged that unforeseen circumstances and implementation of contingency plans may alter some procedures and operations that appear in this document.

Mission Statement of the Election Plan

The San Francisco Department of Elections must:

Conduct all public federal, state, district and municipal elections in the City and County...[This includes] voter registration; the nomination and filing process for candidates to City and County offices; the preparation and distribution of voter information materials; ballots, precinct operations and vote count; the prevention of fraud in such elections; and the recount of ballots in cases of challenge or fraud.

(San Francisco Charter, sec. 13.104)

6.0

1. Introduction

2. Methodology

3. Results

4. Discussion

5. Conclusion

6. References

7. Appendix

8. Acknowledgments

DRAFT
City and County of San Francisco
Elections Commission
Approved: October 17, 2007
Minutes of the Special Meeting held
October 3, 2007

DOCUMENTS DEPT.

OCT 22 2007

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1. President Meek called the meeting to order at 6:10 pm.
2. **PRESENT:** Commissioners Gerard Gleason, Richard P. Matthews, Tajel Shah, Arnold Townsend, and Winnie Yu, and Director John Arntz and Deputy City Attorney Jon Givner. **ABSENT:** none.
3. **PUBLIC COMMENT.** *Alec Bash* presented a resolution from the San Francisco Democratic County Central Committee supporting open source software for electronic voting machines. *Brent Turner* said that he wants the record to show that he firmly supports open voting systems. *Tim Meyer* said that it is important for the City to count its ballots without being committed to any equipment vendor and asked the Commission to listen to Alan Dechert, who is present in tonight's audience. *Gail Sredanovic* said she was not concerned that the voting results may be late, what is important is that the election is safe, fair and transparent. *Evelyn Myer* said that Debra Bowen has been "smeared" in the newspapers, but that she supports Ms. Bowen's bringing integrity to elections.
4. **Announcements.** Deputy City Attorney Jon Givner advised that one of three Deputy City Attorneys will be attending future Elections Commission meetings – he, Ann O'Leary and another Deputy City Attorney with Ms. O'Leary attending most of the meetings. Mr. Givner requested that communications to the City Attorney's Office be sent to both Ms. O'Leary and himself.
- President Meek advised that the Election Plan was delivered two hours before this meeting and would probably not be approved today, but is available online.
5. **Discussion with a representative from ES&S who has been invited explain their participation in the November 6, 2007 Municipal Election.** President Meek announced that ES&S was not sending a representative to this meeting. This item is TABLED.
6. **Discussion and possible action to approve the letter or other communication to the Secretary of State's Office regarding Commission concerns about the conditional ES&S certification.** President Meek announced that the Secretary of State's (SoS's) office was unable to send a representative to this meeting. This item is TABLED.

THE HISTORY OF THE
CITY OF BOSTON
FROM 1630 TO 1800

The city of Boston, founded in 1630, has a rich and varied history. It was the first of the New England colonies, and its growth was rapid. By 1800, it had become one of the largest and most important cities in the United States. The city's history is marked by many significant events, including the Boston Tea Party, the American Revolution, and the Civil War. The city's architecture, culture, and economy have all played a role in its development. Today, Boston is a major center of commerce and industry, and its history continues to shape its identity.

7. **Discussion and possible action to approve the letter or other communication to the Secretary of State's Office regarding Commission concerns about the conditional ES&S certification.** President Meek reminded the Commission that at the last meeting the Commission agreed that she could communicate with the SoS. However, the letter that she drafted generated commissioner concerns, and group discussion of it outside an agenda meeting would pose possible Sunshine Ordinance concerns. President Meek said that there was also concern whether the Commission was overstepping its powers because it is the Director who communicates with the SoS to assure that the City's elections are properly run, and it is the Commission's responsibility to assure that the Director is working with the SoS and meeting the policies that the SoS sets. The Commission does have the authority to make recommendations to the Director, the Board of Supervisors and the Mayor's Office. But the Director's role is to negotiate with the SoS.

Commissioner Matthews asked the Director if he felt the Commission's draft letter has sensible observations and requests. The Director said he hadn't read the letter yet. The Commissioner asked for a short break to allow everyone to read the two page letter and suggested that the draft be reviewed by the Director who could decide whether he approves the letter content and recommends that the Commission send the letter.

Commissioner Townsend said that he doesn't approve the Commission sending a letter to the SoS, and that he has no confidence in ES&S due to their past record. He said the SoS is correct to be concerned about the ES&S equipment.

Commissioner Matthews agreed that he, too, has no trust in ES&S, but, he added, the conditions placed on the election should be rational, make good sense, and be tailored to the precise areas of lack of trustworthiness of our particular voting system – which he reminded the Commission, is on paper and is then fed into the optical scanner, and is not DRE (touch screen) or black box.

Commissioner Shah asked the Director if the SoS contacted him before sending their memo? Director Arntz replied that he had had discussions with the SoS but didn't know what her final conditions would be. The Commissioner said that the SoS memo appeared to be more punitive to the City than to ES&S, and that the Department should continue negotiations with the SoS.

Commissioner Gleason said that if the tabulating equipment is tallying the ballots as they are submitted at the polling sites, the information should be released, otherwise, it is a black box. The tabulation devices could be disconnected; however, voters understand (from the past eight elections) that the machine counts the ballots. President Meek suggested that this assumption, by the voters, can be mitigated by having an announcement about the changes for this election. Commissioner Gleason said that even with the President's suggestion, people will ask why is the City, then, using the Eagle (tabulation equipment). The

The first part of the paper discusses the importance of the study and the objectives of the research. It also outlines the methodology used in the study and the results obtained. The second part of the paper discusses the implications of the study and the conclusions drawn from the research. The third part of the paper discusses the limitations of the study and the areas for future research.

The study was conducted in a laboratory setting and the results were compared with those obtained from field studies. The study found that the results of the laboratory studies were in good agreement with those obtained from field studies. This suggests that the laboratory studies are a valid method for studying the effects of the treatment.

The study also found that the treatment had a significant effect on the response of the subjects. This suggests that the treatment is effective in treating the condition. The study also found that the treatment had no effect on the response of the subjects.

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Commissioner said this is a public perception problem and there is only 30 days left to inform voters.

Director Arntz said that the challenges presented in the SoS's memo are difficult, but workable, and that the delay in getting the results to the public will not be as bad as he first thought when it appeared that the City would have to rely on a hand count of all the ballots. He said that the SoS has tried to find a balance of all the San Francisco concerns.

Commissioner Shah said that she would be interested in seeing the comparison of the Eagle tallies and the IV-C count of the November ballots.

Director Arntz said that a comparison will not happen because the information from the Eagles cannot be used to tally official or unofficial results, per the conditions laid out to the City by the SoS memo.

Commissioner Shah suggested that the tallies be used for administrative purposes, not for the public, but for administrative work and asked whether the SoS's letter allowed for that.

Deputy City Attorney Givner said he could not advise on that question at the meeting and said that the Department could speak to the SoS about this possibility.

President Meek said that perhaps we could use the results in a post-certification audit.

Commissioner Townsend said that if he were the SoS, he would be concerned that there is something wrong with the ES&S equipment because they are not forthcoming with having it tested. He said because of this, he understands why the SoS may not be willing to lift the restrictions she has placed on using the equipment. The Commissioner suggested that the SoS pick up the City's cost for the election and then get reimbursed from ES&S because they (SoS) are better equipped and have more leverage to pressure the company for the money.

Director Arntz said that he anticipates there will still be posting of ballot results at the precincts as the Charter requires. When he asked the SoS about this possibility, he did not receive a negative response. He will notify the Commission immediately if the SoS informs him that she will not allow this posting.

Commissioner Matthews stated that some of the SoS's conditions appear to infringe upon the S.F. Charter, such as Section 13.102(e) which covers the RCV rules regarding simultaneous elimination, and the handling of the bottom three vote holders. He said although there is no RCV election this November, one may occur next year, and what will the City be required to do in these cases. Director Arntz said that he has asked those questions of the SoS and no response has been received.

THE HISTORY OF THE CITY OF BOSTON

FROM THE FIRST SETTLEMENT IN 1630
TO THE PRESENT TIME

BY
JOHN H. COLEMAN

VOLUME I

THE CITY OF BOSTON

1630-1690

THE CITY OF BOSTON
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THE CITY OF BOSTON
1630-1690

Commissioner Gleason reminded the Commission that it has been reacting to a letter that the SoS sent to the vendor (ES&S), and it would be appropriate if the SoS, in conjunction with the Department would come out, publicly, and say what it has decided regarding San Francisco's elections.

Public Comment. *Steven Hill* said the letter should be sent because the letter from the SoS is not an official certificate and because it is a letter, he believes it offers flexibility. *Alan Dechert* said that two of the largest voting equipment suppliers are up for sale, but there have been no buyers because people see them as liabilities and this is why San Francisco needs to look into very different equipment. *Carol Bella* said it would be good to accept the conditions set forth by the SoS and move forward, and that her organization needs to know what they can do to assist the Elections Department in the next election. *Brent Turner* said the hybrid system proposed by the SoS is still not the answer, and that an open source systems is the real answer. *Sacha Ielmorini* suggested that the DoE make of copy of the precinct results posted at each location and use the copy for audits, and if ES&S doesn't present its equipment for the SoS's top-to-bottom review, the City should let the SoS have one of our machines for certification. Ms. Ielmorini also suggested sending absentee voters proper writing implements with their ballots, and that the DoE should start a new Request for Proposal for its voting equipment. *Gail Sredanovic* said she is very concerned about black box voting and the public should be as well. *Roger Donaldson* said that checking the ballots that are under-voted with the Eagles is important to help get more accurate ballots counted and the results out faster. *Alec Bash* reported that there have been many letters written to the editor on behalf of the DoE recently, and it would be helpful to get press releases out to the media about the changes in the way votes will be counted this November. *Eric Martinez* said that the single most important thing the public wants to know is that someone is in charge, that public participation is necessary, and the goal of the election should be accuracy and not speed of results.

Commissioner Gleason made a MOTION that the Commission send a letter to the Secretary of State requesting immediate, direct and public interaction on this issue beginning tomorrow. Commissioner Matthews asked for more information regarding this proposal. Commissioner Gleason answered that he wanted direct discussion and disclosure of how our election in November is going to operate. Commissioner Matthews SECONDED this motion.

Commissioner Gleason reminded the Commission that all the Commission and Department has is a "cc" on a letter to the vendor. He said we need to take the vendor out of the picture because the vendor is not responding, and may not pay for the results of their not responding, and the SoS needs to come and take charge of this situation, 30 days before election day in whatever format the SoS and the DoE feel is appropriate.

The first part of the paper discusses the importance of the study and the objectives of the research. It also mentions the scope of the study and the limitations of the study.

The second part of the paper discusses the methodology used in the study. It mentions the data sources and the data collection methods. It also mentions the data analysis methods used in the study.

The third part of the paper discusses the results of the study. It mentions the findings of the study and the conclusions drawn from the study. It also mentions the implications of the study and the recommendations for future research.

The fourth part of the paper discusses the conclusion of the study. It mentions the overall findings of the study and the conclusions drawn from the study. It also mentions the implications of the study and the recommendations for future research.

The fifth part of the paper discusses the conclusion of the study. It mentions the overall findings of the study and the conclusions drawn from the study. It also mentions the implications of the study and the recommendations for future research.

The sixth part of the paper discusses the conclusion of the study. It mentions the overall findings of the study and the conclusions drawn from the study. It also mentions the implications of the study and the recommendations for future research.

President Meek replied that as things now stand, it appears that the Director has the election under control, but that perhaps what can be done is to get more information to the public about what to expect on Election Day. She said that the SoS doesn't need to be involved at this point.

Commissioner Townsend reminded the Commission that the SoS has had direct contact with Director Arntz before and after the letter was sent to the vendor.

Commissioner Yu said what is needed is to take a proactive step to communicate precisely to the public what the next steps are, so that the press doesn't write what they think will happen.

Public Comment. *Steven Hill* said that if the Commission made a request of the SoS regarding the things that the Commission feels would be too much of a burden on the DoE, or cause a public relations problem – such as late results – there may be some receptivity on the part of the SoS.

Commissioner Matthews asked the Director if it was foregone that the DoE will be using this same ES&S equipment in February and June 2008. Director Arntz replied that this is his intent. The Commissioner then asked if the equipment would need to be re-certified for each of those elections. Director Arntz responded that the SoS's conditions would remain the same and that the only exception would be for RCV, for which the equipment is not certified beyond this November's election.

Commissioner Matthews asked the Director if he thought he could negotiate some of the SoS's current conditions after this next election. The Director responded that he has voiced his concerns with the SoS more than once, and that it appears to him that the SoS feels strongly about what she has written in her memo to ES&S.

President Meek suggested that the Commission, after observing this November's election, make recommendations to the Director and send them to the SoS with the SoS's directives attached and explain how the election was affected by those directives.

Commissioner Matthews said that the members of the Commission and the Public Speakers at this meeting have voiced their desire to compare the results from the Eagles with the results from the IV-Cs and the hand count tallies after the election is certified, as this situation offers a rare opportunity to evaluate the equipment, and asked Director Arntz for his opinion on doing this. Director Arntz responded that he understands that people would like to see this occur, but we may not actually get that picture because one of the complaints about the system is that for RCV, you do not have a true ballot image of the data. It's not "perhaps as elegant a solution as we think going into it." Mr. Arntz said that getting through the elections is primary right now that the audit is a question to pose to the SoS and that he is not looking to go beyond, at this point, what the SoS is requiring of us and this voting system

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
530 SOUTH EAST ASIAN AVENUE
CHICAGO, ILLINOIS 60607

TO: DR. J. H. HARRIS
FROM: DR. J. H. HARRIS

RE: [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

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because he really just wants to plan for the election. Mr. Arntz said that he's not necessarily against the post certification audit.

Commissioner Matthews asked if we could at least get the SoS to not disallow the DoE running a second tape of the Eagles results. Director Arntz responded that he would discuss that possibility with the SoS.

Public Comment. *Danny Swarzman* said that looking at individual precinct postings will not be of help in an RCV election, and that the necessity for hand counting in an RCV contest is larger than in non-RCV contests.

The Roll Call Vote was: Gleason – yes; Matthews – no; Townsend – no; Yu – no; Meek – no; Shah was absent from the meeting during this vote. The MOTION FAILED four to one.

8. **Discussion and possible action to adopt the November 6, 2007 Election Plan.** President Meek explained that the plan before the Commission tonight was just delivered and that the public and Commission need more time to review it before adoption. She explained to the public that the Election Plan is basically a template in which the Department enters dates and that the section beginning on page 2, "New Practices" and ending on page 5, and outlines all the information discussed at tonight's meeting is an addition to that template.

Commissioner Matthews asked the Director if he planned to expand the explanation of the visual review of each ballot card, or just list the conditions in the Election Plan. Director Arntz said in the past the Department demonstrated the steps that will take place when handling election information. The explanation will not get to specifics like "turn the card over", but there will be a clear picture for the public to see how we handle the ballots and election materials as they relate to the conditions now given to us by the SoS. Mr. Arntz said that what is presented tonight is just a draft and more will be added. The Commissioner asked if the Commission waits for two weeks, will it be ready for approval at the October 17, 2007 meeting. Director Arntz responded affirmatively.

This item has been moved to the October 17, 2007 Commission Meeting.

Adjournment at 8:05 pm.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF THE HISTORY OF ARTS

AND ARCHITECTURE

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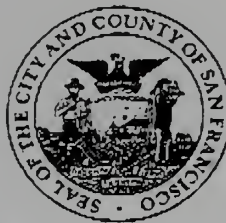
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ELECTIONS COMMISSION
City and County of San Francisco

Jennifer Meek, President
 Arnold Townsend, Vice President
 Gerard Gleason
 Richard P. Matthews
 Tajel Shah
 Winnie Yu

John Arntz
 Director of Election

Shirley Rodriques
 Commission Secretary

Elections Commission Meeting
Wednesday, October 17, 2007 at 7:00 pm
City Hall Room 408

ORDER OF BUSINESS

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **ANNOUNCEMENTS**

5. **Public comment** on any issue within the Elections Commission's general Jurisdiction

6. **CLOSED SESSION**

Closed Session held pursuant to Ralph Brown Act, section 54956.9 and Sunshine Ordinance Section 67.10(d)

CONFERENCE WITH LEGAL COUNSEL, Deputy City Attorney

Anticipated litigation: _____ 1 _____ As defendant _____ 1 _____ As plaintiff

7. **Discussion and possible action regarding disclosure of Closed Session pursuant to Ralph Brown Act, section 54956.9, and Sunshine Ordinance, section 67.10(d)**

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8. Director's Report

- **Division Updates**

• Ballot Distribution	• Poll Locating/ADA
• Budget/Personnel	• Poll Worker Division
• Campaign Services	• Technology Division
• Outreach	• Voter Services
• Publications	• Ballot Simplification Committee

- Update on securing a voting system for 2007-2008
- Conversations with SOS's office on possibility of using Eagle data for a post-election audit
- Budgeting options for this election

9. Commissioners' Reports

- Meetings with public officials
- Oversight and Observation activities
- Meetings with nongovernmental organizations
- Long-range planning for Commission activities and areas of study

10. NEW BUSINESS

- (a) Discussion and possible action to approve a method for assessing the November 6, 2007 Municipal Election.
- (b) Discussion and possible action to approve the minutes of the September 19, 2007 and the October 3, 2007 Special Meeting.

11. OLD BUSINESS

- (a) Discussion and possible action regarding securing a voting system for 2007-2008.
- (b) Discussion and possible action to approve the November 6, 2007 Election Plan.

12. Discussion regarding items for future agendas**ADJOURNMENT**

The first part of the report deals with the general situation of the country. It is a very interesting and informative study of the country's development. The second part of the report deals with the specific details of the country's development. It is a very detailed and thorough study of the country's development. The third part of the report deals with the specific details of the country's development. It is a very detailed and thorough study of the country's development.

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Disability Access

The Elections Commission meeting will be held in Room 408, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA. The Commission meeting room is wheelchair accessible. The closest accessible BART station is the Civic Center Station at United Nations Plaza and Market Street. Accessible MUNI lines serving this location are: #42 Downtown Loop, and #71 Haight/Noriega and the F Line to Market and Van Ness and the Metro Stations at Van Ness and Market and at Civic Center. For information about MUNI accessible services call (415) 923-6142. There is accessible curbside parking adjacent to City Hall on Grove Street and Van Ness Avenue and in the vicinity of the Veterans Building at 401 Van Ness Avenue adjacent to Davies Hall and the War Memorial Complex.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact The Elections Office at (415) 554- 4375 or our TDD at (415) 554-4386 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals. Individuals with chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-6060.

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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7724; FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

Materials contained in the Commission packets for meetings is available for inspection at the Elections Department, City Hall Room 48, in the Commission's Public Binder, no later than 72 hours prior to meetings.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300, fax (415) 581-2317; web site at www.sfgov.org/ethics.

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Elections Commission

October 17, 2007

City and County of San Francisco

Elections Commission

Approved: November 20, 2007

Minutes of the Meeting at City Hall Room 408

October 17, 2007

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1. **CALL TO ORDER.** President Jennifer Meek called the meeting to order at 7:03 pm.

2. **ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Winnie Yu, Arnold Townsend and Richard P. Matthews, Deputy City Attorney Ann O'Leary, and Director of Elections John Arntz. EXCUSED: Tajel Shah.

3. **CLOSED SESSION** began at 7:07 pm.

Closed Session held pursuant to Ralph Brown Act, section 54956.9 and Sunshine Ordinance Section 67.10(d)

CONFERENCE WITH LEGAL COUNSEL, Deputy City Attorney

Anticipated litigation: _____ 1 _____ As defendant _____ 1 _____ As plaintiff

FULLSESSION RESUMED at 7:32 pm.

4. **Discussion and possible action regarding disclosure of Closed Session pursuant to Ralph Brown Act, section 54956.9, and Sunshine Ordinance, section 67.10(d).** Commissioner Matthews MOVED and Commissioner Townsend SECONDED that the Commission not disclose the substance of the Closed Session. The Roll Call Vote was UNANIMOUS to not disclose.

5. **Director's Report.**

Ballot Distribution: The Division has received approximately 10 pallets daily of ballots. These cards will be stored at 240 Van Ness which has now been red tagged – which means the DoE must vacate the location immediately. The interim solution is to move into Brooks Hall. The Director said that he hopes to get something in writing that acknowledges that this will be an interim solution. The Director applauded Ed Lee for getting involved in this problem and making this change, however, DoE facilities have other problem areas. Staff is currently being trained on the remake procedures because every ballot must be reviewed due to the Secretary of States' (SoS) new conditions regarding the City's use of Election Systems and Software's (ES&S)

voting systems.

Budget/Personnel: The Division is ensuring that new staff are inputted into the City's personnel system to assure DoE divisions have their required staffing. In addition, Budget and Personnel is dealing with facility, budget, and voting system issues.

Campaign Services: The write-in period ends next Tuesday, October 23 for the November election. The Open House, which is an organized chance for the public to walk through the office and observe DoE staff at work, is scheduled for Wednesday, October 24, from 3:30pm to 5:00 pm. Charter and bond measures for the February election are due Friday, October 26. The Director reminded the Commission that both elections are running simultaneously.

Outreach: The Division has given 200 presentations since August. One of the highlights is a half-hour presentation made at Univision and will be aired soon. A partnership with the Northern California Service League will produce a model for ex-offenders. The ACLU contacted Director Arntz last week regarding profiling the DoE's ex-offender program with the goal of going statewide.

Publications: The Voter Guides have all been mailed. The guides in Spanish and Chinese are now one line and will be mailed by Friday. Reading the screen text and listening to the audio content of the AutoMARKs is taking place, and over 500 machines have been received from Contra Costa County. These were borrowed since the ones San Francisco uses have an undetermined status. So far, the same problems we saw in our machines last June are coming to light with these borrowed AutoMARKs. Paid Arguments are being readied for online access. The Ballot Simplification Committee will reconvene during the week of this November's election.

Poll Locating and ADA: The Division had secured 535 accessible sites, this is not 100% but it is a great improvement. The Director applauded the work of this Division. The DoE's approach in accessibility, he said, has become a model for other counties and the state. The Division has written a chapter in the state's accessibility guidelines. The distribution and retrieving of equipment to the polling sites is also the responsibility of this Division, and they have already developed the routes they will use.

Pollworkers: The Division has met all bi-lingual requirements for all poll sites. There are 1,002 Chinese speaking, 302 Spanish speaking pollworkers. Each site has one inspector and four clerks. Recruitment for inspectors continues because there will inevitably be inspectors who will cancel on election day. Fifty-five percent of the clerks (1,412) have been trained. This has been a huge undertaking and the Director had praise for the people who organized and carried out this effort. All Field Election Deputies (FEDs) have been hired.

Technology: The Division is working on the files necessary to send voter guides and absentee ballots to people who applied after the original mailing. Phone Bank phones and computers are being installed. The Early Voting counter has been set up. There is a new state law that requires the DoE to let people know if their absentee ballot has been received and counted. This report will be on the website. Currently a ballot tracking data base is being created.

The first part of the report deals with the general situation of the company and the results of the previous year. It is followed by a detailed analysis of the various departments and their contribution to the overall performance.

The second part of the report focuses on the financial aspects of the company. It provides a comprehensive overview of the income statement, balance sheet, and cash flow statement, along with a detailed explanation of the various line items.

The third part of the report discusses the company's marketing and sales strategy. It outlines the key objectives and goals for the current year, and provides a detailed analysis of the various marketing and sales activities that have been undertaken.

The fourth part of the report deals with the company's human resources management. It provides a detailed overview of the various HR functions, including recruitment, training, and performance management, and discusses the challenges and opportunities facing the company in this area.

The fifth part of the report discusses the company's research and development activities. It provides a detailed overview of the various R&D projects that are currently underway, and discusses the challenges and opportunities facing the company in this area.

The sixth part of the report discusses the company's legal and compliance issues. It provides a detailed overview of the various legal and compliance requirements that the company is subject to, and discusses the challenges and opportunities facing the company in this area.

The seventh part of the report discusses the company's environmental and social responsibilities. It provides a detailed overview of the various environmental and social issues that the company is facing, and discusses the challenges and opportunities facing the company in this area.

Voter Services: The Division is handling changes and cancellations in registrations. The registration deadline is Monday, October 22. Early Voting started two weeks ago and 230 people have voted. 4700 Absentee Ballots have come in, four state initiatives have had their signatures checked and declined to state postcards have been sent to those permanent absentee voters for the February election (40,000).

Update on securing a voting system for 2007-2008: The Department will be able to use the ES&S system for the November election and AutoMarks borrowed from Contra Costa County. ES&S is transporting and doing maintenance on the machines from Contra Costa. The cost of the maintenance will be coming out of the City's contract with ES&S. ES&S will provide personnel on 24-hour shifts starting October 26 and through November 14, 2007. ES&S has said that they will not reimburse the City for the conditional requirements set by the SoS, they will provide a formal response by next week. The Director said that the rough estimates of the cost is \$200,000 for processing the ballots, and \$100,000 for the manual audits. He said he asked the SoS if they would cover the costs, and he doesn't think this will happen. The money will have to come from the general fund in the form of a supplemental appropriation.

The SoS held a hearing on Monday and the issue was not decertifying the AutoMARKs, although the media reported it as such. The issue was did ES&S sell the model 200 AutoMARK to San Francisco and four other counties without their being approved by the SoS. The state is not expected to make a decision until after the November election.

ES&S has exempted itself from the 'top-to-bottom' review because the company has made upgrades to its operating system (the Unity Platform), and the review was for existing, not changed, voting systems. ES&S wanted, therefore, to go through a certification review. This has not begun and the Director doesn't know the status.

The ballots from election night will be taken to Pier 29, as they have in the past. They will be brought to City Hall to be examined and counted on the IV-C machines (ES&S will provide four more of these machines) in increments of 25, 50 or 100 precincts. The ballots will then go to Brooks Hall for the canvassing.

The Director's goal is to have 65% of the absentee ballots and 75% of the polling place ballots counted by the Friday after election day.

Director Arntz reported that the SoS approves the idea of conducting an audit of the Eagle data, probably after certification, to make comparisons with the IV-C tallies. The SoS wants a report generated from this audit to evaluate how well the City's outreach efforts at the polls to get voters to use the proper pens worked.

Director Arntz warned that the audit could be a double-edged sword. If the results are not favorable toward the accuracy of the equipment, the SoS could disallow use of the equipment for the February and June elections.

Commissioner Matthews asked if the memory packs from the Eagles will be secured by the Sheriff Deputies. Director Arntz replied that they would be held in the locked compartment of the Eagles and be picked up days after the election.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
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CHICAGO, ILL. 60637

TO THE HONORABLE CHAIRMAN OF THE BOARD OF TRUSTEES
OF THE UNIVERSITY OF CHICAGO
FROM THE DEPARTMENT OF CHEMISTRY
RE: A REPORT ON THE PROGRESS OF THE RESEARCH
DURING THE YEAR 1964

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Commissioner Gleason passed out reports from the November 2004 RCV election and explained the difficulties with remaking ballots in which voters use the wrong pen.

He explained a report he passed out that showed ballot image reports in one precinct and the number of undervotes in that report. Commissioner Gleason said that every undervoted ballot would have to be remade under the new SoS requirements for the City. He said that the SoS is probably not aware of this and the burden it places on the Department, and he hopes they will revisit the decision before the November election. The Commissioner said that, as a voter, he prefers that a human being not touch or remake his ballot once he has marked it. His preference is for the machine to record his vote.

Director Arntz said that prior to the SoS's current conditions, the DoE had 40 to 50,000 outstacks (during RCV elections), but they all did not represent remakes, but they all needed to be inspected manually. Although the workload will be greater this election, it will be manageable. He spoke with the SoS and suggested lowering the percentage for the precinct voted ballots from 10 to 5% and absentee ballots from 25 to 10% at the onset and if there are discrepancies add more to the percentage. The SoS appears to have strong doubts regarding this voting system, i.e. the machines do not pick up a large percentage of the marks on the ballots. What the SoS has given the City is a compromise between a machine count and a hand count.

President Meek asked the Director to explain his plans for security of the ballots at Pier 29 until they are counted. Director Arntz said that the Sheriffs and DoE personnel will be providing 24 hour security.

Commissioner Matthews thanked the Director for bringing up these issues with the SoS and for getting approval for an audit.

Public Comment. *Carol Bella* said that if Sequoia had been certified in the winter of 2006 and had an RCV product, the contract would have been approved. *Brent Turner* said that he feels that San Francisco is setting the standard for the nation in its selection of voting equipment. *President Meek* said that the needs of the voters of San Francisco are the Commission's priority for fair, safe and accurate election and not to set a national standard, as Mr. Turner implies. *Rodger Donaldson* said that he is glad that tax payers did not spend \$12M for the Sequoia equipment because it is not worthy of the voters of San Francisco. *Alec Bash* said that it appears that there will be no discretion on the part of inspectors if they were to look at a RCV ballot and it was obvious that there was no mark for a second or third candidate for a position. *Tim Meyer* said that the foundation for a democracy is voting, and if there is a budget for voting it should be one that makes sure that when we vote it is counted exactly as the voter intended.

6. Commissioners' Reports

Commissioner Matthews reported that he attended two Logistics and Accuracy Tests, one in the Computer Room with the IV-C machines and one at Cor-A-Van. The Commissioner also attended two trainings which were excellent. One was a power point presentation for pollworkers, which keeps getting better each year, and the other was regarding the information kiasks (a stand alone board which will hold the VIP, information regarding how to use the equipment and Braille information card in three languages) which will be at each polling place. The Commissioner asked the Director to congratulate the person who came up with this great

idea.

7. NEW BUSINESS

(a) Discussion and possible action to approve a method for assessing the November 6, 2007

Municipal Election. Commissioner Gleason asked if the Commission could contact the SoS and explain the hardships her restrictions have placed upon the DoE. Deputy City Attorney O'Leary explained that the Director of Elections has the authority to deal with the day-to-day operations of the Department and the Commission is a policy body. The Director is the point of contact for the SoS. It is appropriate for the Commission to indicate to the Director and the SoS any policy recommendations.

MOTION: To make a recommendation to the Department and the Secretary of States Office to re-evaluate the remake requirement for RCV votes in light of the workload burden on the Department of Elections and the infringement on the voters' intent. Commissioner Gleason MOVED and Commissioner Matthews SECONDED this item for discussion.

Public Comment. *Alec Bash* suggested that the letter have a finding that there be no discretion involved in observing a ballot and noting that there are no marks for a second or third choice. He also suggested that the letter not go to Director Arntz alone but to the Secretary of State as well. This would not put the Director in the position of being an intermediary in an area he has already negotiated with the SoS. *Rodger Donaldson* suggested that the letter quote directly from the the SoS's letter, i.e. the numerated bullet points. *Brent Turner* said that he is in favor of open source voting and that we, the City, are in a national leadership role. *Tim Meyer* said he appreciates what the SoS is trying to achieve with her letter but the letter needs to point out that she will not achieve her goal by recounting every RCV vote that is not completely voted.

President Meek asked the Deputy City Attorney if the letter could be copied to the SoS. Deputy City Attorney O'Leary said that this was appropriate because it was about a policy matter.

Commissioner Gleason asked that the letter be copied to Lowell Finley and Evan Goldberg in the SoS's Office as well.

The Roll Call Vote FAILED with Commissioners Gleason, Matthews and Meek voting "yes" and Commissioners Townsend and Yu voting "no".

President Meek reported that she has outlined seven areas for assessing the election, for example: How do we get information on the ballots, How do we get the votes counted, How do we report the votes, Voter Registration, Voter Education, Vote Tabulation, Compliance with the Code, Vote Integrity and Voter Communication. In November the Commission can begin the assessment and take public comment. In December the Commission can review all the activities completed (the vote should be certified by then), and again take more public comment on the election. In January the Commission can formally assess the election, given all the feedback from the public, news sources and input from the Commissioners. After the first run on this assessment, a policy on how the Commission will conduct future assessments can be made.

The first part of the report deals with the general situation of the country. It is a very interesting and informative study of the country's development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country.

The second part of the report deals with the economic situation of the country. It is a very interesting and informative study of the country's economic development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country.

The third part of the report deals with the social situation of the country. It is a very interesting and informative study of the country's social development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country.

The fourth part of the report deals with the political situation of the country. It is a very interesting and informative study of the country's political development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country.

The fifth part of the report deals with the cultural situation of the country. It is a very interesting and informative study of the country's cultural development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country.

The sixth part of the report deals with the environmental situation of the country. It is a very interesting and informative study of the country's environmental development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country.

The seventh part of the report deals with the future of the country. It is a very interesting and informative study of the country's future development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country.

Deputy City Attorney O'Leary suggested that the Commission may want to amend its bylaws to include the assessment policy later.

- (b) **Discussion and possible action to approve the minutes of the September 19, 2007 and the October 3, 2007 Special Meeting.** Commissioner Matthews MOVED and Commissioner Townsend SECOND this item. A Roll Call Vote was UNANIMOUS.

8. OLD BUSINESS

- (a) **Discussion and possible action regarding securing a voting system for 2007-2008.** President Meek suggested that the Commission send a letter to the Board of Supervisors requesting the Board take action regarding the RFP. The MOTION is to urge the Board of Supervisors, through a letter, to take action regarding the resolution to approve or disapprove the Sequoia Contract. Commissioner Matthews MOVED and Commissioner Yu SECONDED.

Public Comment. *Alec Bash, Tim Meyer and Brent Turner* urged the DoE to proceed with an RFP for a open source voting system for the November 2008 election.

The Roll Call Vote was UNANIMOUS.

- (b) **Discussion and possible action to approve the November 6, 2007 Election Plan.** Commissioner Matthews offered an amendment that the memory packs be secured by the Sheriffs. Commissioner Townsend asked the Director if the memory packs, without this amendment, would be kept at the precincts. Director Arntz said yes. Commissioner Gleason said that leaving the memory packs, unattended, was a perception issue that should be avoided. Director Arntz suggested and agreed to changing the election plan to include having the pollworkers/inspector put the memory packs in the bags on election night. MOTION to amend the Election Plan to have a policy to secure the memory packs. Commissioner Matthews MOVED and Commissioner Yu SECONDED this amendment. Commissioner Gleason said that he would not approve the motion if it is only a general policy because could be said that the memory packs are secured inside the machine. If it is not in the plan, Commissioner Gleason said he would not approve it.

Public Comment. *Brent Turner* said this is like the "black box" issue and that security can never be obtained by the current system.

The Roll Call Vote was: Gleason: No, Matthews: Yes, Townsend: Yes, Yu: Yes, Meek: Yes. The MOTION PASSES.

MOTION to approve the Election Plan with the addition explaining that the ballots will be stored at Brool Hall instead of 240 Van Ness, since that site is red tagged. Commissioner Townsend MOVED and

Commissioner Yu SECONDED approval of the Elections Plan and with the discussed changes.

Commissioner Matthews asked Director Arntz if it is now his intention to have the memory packs placed in the ballot bags at the precincts. Director Arntz said that the memory packs would be captured in some manner on election night and he will work out the details of how and who later.

The Roll Call Vote was UNANIMOUS.

9. Discussion regarding items for future agendas

Commissioner Matthews suggested the following topics for upcoming meetings: (1) Exploring the possibility of starting future meetings at 6:00 pm, (2) Discussion and possible action to propose a policy to the Director about revisiting the SoS's conditions for the February and June 2008 elections, depending upon what happens this November, (3) Discussion and possible action to help the DoE secure more suitable space, (4) Discussion and possible action regarding a policy, if the DoE goes to the Sequoia system, preferring that the voters use paper ballots and not the DRE that will be available at the precincts.

Public Comment. *Alec Bash* urged the Commission to calendar a meeting for an RFP for open source code software system. *Brent Turner* said he is against using the Sequoia system. *Tim Meyer* encouraged the Commission to look into open source software solutions.

Announcement. The Budget and Oversight of Public Elections Committee will not meet in the month of November.

ADJOURNMENT at 9:45 pm.

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ELECTIONS COMMISSION
City and County of San Francisco



Jennifer Meek, President
 Arnold Townsend, Vice President
 Gerard Gleason
 Richard P. Matthews
 Tajel Shah
 Winnie Yu

John Armitz
 Director of Election

Shirley Rodriques
 Commission Secretary

SPECIAL MEETING
Elections Commission Meeting
Tuesday, November 20, 2007 at 5:00 pm
City Hall Room 034

ORDER OF BUSINESS

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **ANNOUNCEMENTS**

5. **Public comment** on any issue within the Elections Commission's general Jurisdiction

6. **Director's Report**

- Report of the November 7, 2007 Municipal Election
- Update on securing a voting system for 2007-2008

7. **Commissioners' Reports**

- Meetings with public officials
- Oversight and Observation activities
- Meetings with nongovernmental organizations
- Long-range planning for Commission activities and areas of study

8. **NEW BUSINESS**

- (a) **Discussion and possible action to develop a policy for reviewing the February and June 2008 elections.**

~~11-20-07 7:00 PM~~

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- (b) Discussion and possible action to start all meetings at 6 pm.
- (c) Discussion and possible action to approve the minutes of the October 17, 2007 Elections Commission meeting.

9. **OLD BUSINESS**

- (a) Discussion and possible action regarding securing a voting system for 2007-2008.

10. **Discussion regarding items for future agendas**

ADJOURNMENT



Disability Access

The Elections Commission meeting will be held in Room 034, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA. The Commission meeting room is wheelchair accessible. The closest accessible BART station is the Civic Center Station at United Nations Plaza and Market Street. Accessible MUNI lines serving this location are: #42 Downtown Loop, and #71 Haight/Noriega and the F Line to Market and Van Ness and the Metro Stations at Van Ness and Market and at Civic Center. For information about MUNI accessible services call (415) 923-6142. There is accessible curbside parking adjacent to City Hall on Grove Street and Van Ness Avenue and in the vicinity of the Veterans Building at 401 Van Ness Avenue adjacent to Davies Hall and the War Memorial Complex.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact The Elections Office at (415) 554- 4375 or our TDD at (415) 554-4386 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals. Individuals with chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-6060.

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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7724; FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

Materials contained in the Commission packets for meetings is available for inspection at the Elections Department, City Hall Room 48, in the Commission's Public Binder, no later than 72 hours prior to meetings.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300, fax (415) 581-2317; web site at www.sfgov.org/ethics.





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The Elections Commission

November 20, 2007

City and County of San Francisco
Elections Commission

Approved: 12-19-07

Minutes of the Meeting at City Hall Room 034

November 20, 2007

1. **CALL TO ORDER.** Vice President Arnold Townsend called the meeting to order at 5:10 pm.

1. **ROLL CALL.** PRESENT: Commissioners Gerard Gleason, Arnold Townsend, Tajel Shah, and Richard P. Matthews, Deputy City Attorney Ann O'Leary, and Director of Elections John Arntz. Commissioner Winnie Yu arrived at 5:11 pm. EXCUSED: Commissioner Jennifer Meek

1. **Announcements.**

Deputy City Attorney Ann O'Leary introduced Deputy City Attorney Andrew Shen and said that they will be sharing duties in the future.

1. **Public Comment.** *Alec Bash* complimented the Department of Elections on a good job under difficult circumstances during the November 2007 election and urged the use of hand counts to ensure future elections. *Tim Meyer* said he observed two precincts and was glad to see that the clerks working those precincts offered voters the correct pens to mark their ballots. *Brent Turner* said he also observed several precincts and compared San Francisco's election to San Mateo's. He congratulated San Francisco for its good work. *Steven Hill* said that "error notifications" should be used more judiciously, because there was no need for the amount of errors reported for this election.

5. **Director's Report.**

Ballot Distribution:

There are eleven teams doing the canvassing. The division is reviewing and tallying write-in votes and reconciling ballots. Staff is organizing absentee ballot envelopes and remake ballots for record retention. After the canvass, they will organize the ballots for storage and recycle the unused ballots. Of the remakes, 49401 were precinct ballots and 60676 were absentee ballots. Approximately 37 of all ballots and 70% of the RCV ballots processed required remaking. The division is already working on the February 8, 2008 election ballot order, inventory and place requisitions for supplies and reviewing procedures and preparing precinct materials.

Budget/Personnel:

The division has submitted its 4 month report and is preparing its 6 month report. Staff is still processing hiring documents while also preparing the documents for laying off temporary workers. Additionally staff is preparing to work with managers on the 08/09 budget.

Campaign Services:

The deadline for submission of paid arguments was yesterday. The deadline for arguments was last Friday. The division is preparing the Candidate Guides for

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the June Primary.

Outreach:

Division has represented the Department at 250 events so far and handed out nearly 15,000 brochures. 180 organizations have been contacted and provided voting materials. Currently staff is assisting with ballot processing and canvassing. The division is preparing for the February election.

Publications: Work has begun on the February VIP (Voter Information Pamphlet). There will be three measures, probably 144 pages in the VIP. The ballot for this election will be Two Cards. Staff is awaiting the status of a possible state bond and translations. The SOS has requested that San Francisco participate in its "Ballot Translation Advisory Group".

Poll Locating and ADA:

The division is contacting polling places to confirm availability for the February election and has already begun relocating some polling sites. Staff has completed the retrieval of voting equipment from the polling places and is inventory equipment and supplies in preparation for February.

Pollworkers:

High School recruitment will begin next week. The division was able to mail the poll workers their checks a week earlier than scheduled. Plans are being made for the February elections and poll workers are being contacted to work. Staff is receiving many calls and the website has been update for the next election. The Field Election Deputies (FEDs) are being debriefed to determine how to improve services, recruitment, retention, training and election day processes.

Technology:

The division is creating the IRIS (incident reporting information system) reports for the November election, resizing voter registration and transaction databases, and conducting inventory for equipment, such as laptops, scan guns, cables, cords, website housekeeping. Staff is setting up Brooks Hall for the canvass. And de-installing the Election Center and Cor-O-Van locations.

Voter Services:

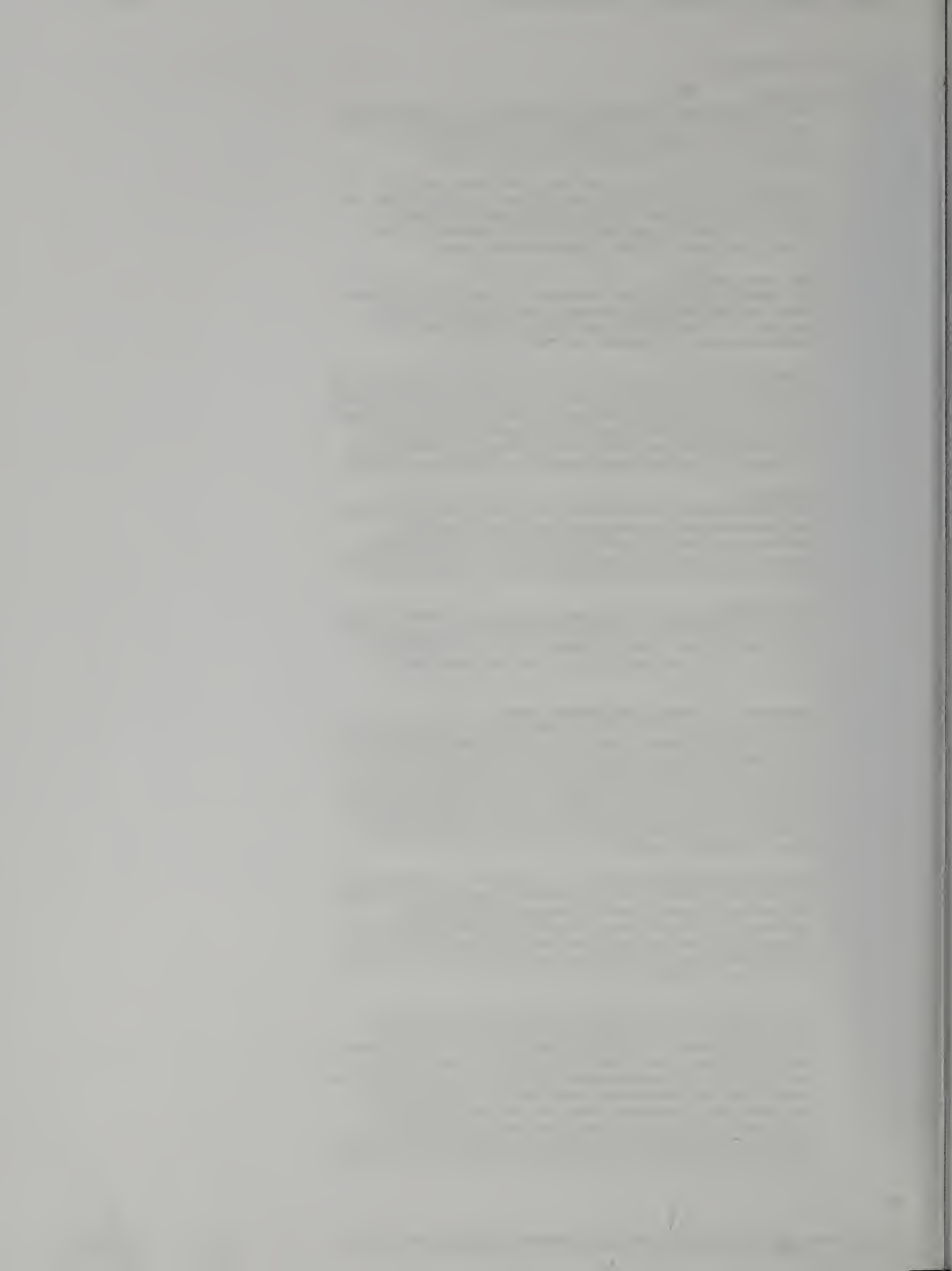
The division is beginning its post-election work, completing roster reconciliation – looking for duplicate records from scanning or names missed, updating voter history, recording after-deadline registration cards, conducting duplicate analysis of records, and superior court and health department records.

Update on the November 7, 2007 Municipal Election:

Director Arntz reported that 70,072 voters went to the polls for this election. This is 17% of the registered voters. The Department mailed 148,121 absentee ballots and 54% of them were cast. This is 19% of the registered voters. The total turn out was 36% with 150,098 voters voting. Of the 4641 Provisional Ballots submitted, 4012 were accepted, 629 were challenged, 405 were non-registered voters and 112 had no signature. DoE staff worked 24-hour shifts the first two days after the election, then 18-hour shifts until the Sunday after the election and are currently working 12 hour shifts to complete the ballot count. The canvass is ongoing.

Update on securing a voting system for 2007-2008: Director Arntz reported that there will be a December 5, 2007, demonstration to show that Sequoia Voting Systems has done work on their RCV component, and a February demonstration to show that reports regarding RCV can be generated. The Sequoia Contract was continued by the Rules Committee until their December 5, 2007, meeting and the Full Board could vote on the contract, if it passes the Committee, on December 11, 2007.

Public Comment. *Steven Hill* asked, if there would be damages awarded, should Sequoia not meet the contract goal to demonstrate RCV (Ranked Choice Voting) abilities. *Carol Bella* said there should be a full demonstration of the Sequoia System, asked if precinct volunteers could work without pay to save the City money, and complimented the Director on the way he handled the media to calm fears. *Alec Bash* requested that the Department do a 10% manual audit for future elections. *Steven Hill* asked how the AutoMarks performed during this election. *Director Arntz* responded that they did not surpass expectations. *Brent Turner* suggested that today's meeting's start time of 5 pm maybe a problem since all Commissioners didn't arrive until after 5 pm.



6. Commissioner's Reports.

Commissioner Richard P. Matthews reported that he visited 31 polling places in all eleven supervisorial districts on election day, concentrating mostly along the southern and western parts of the City, followed by observing election night activities at Pier 29. In addition, he attended three training sessions before election day, and said that the training gets better with each election. He also observed some of the logic and accuracy testing at Cor-O-Van, and reported that operations were going smoothly. Following election day, he observed the processing of absentee ballots and remakes in City Hall and the manual tally in Brooks Hall. Overall, things went well, and Commissioner Matthews said that there are no questions to be raised about this election.

However, Commissioner Matthews pointed out a few issues he observed, saying that these might be one-time occurrences or they might be issues worth revisiting for future elections, possibly in terms of training more on some issues:

(a) The AutoMark machine/inadvertently steering voters to use it. Most places Commissioner Matthews observed had no voters who had used the AutoMark, but a few places had several and one polling place in particular had a short line of people waiting to use it while no other voters were marking their ballots at the regular booths. According to the inspector, the ballot clerk was saying something that seemed to be more suggestive or inviting for voters to use the AutoMark than is really intended. Commissioner Matthews raised the question of whether the current script that ballot clerks are supposed to use was from a directive issued by then-Secretary of State Bruce MacPherson sometime in 2006; Director Amtz did not recall, but Deputy City Attorney O'Leary indicated that she thought she recalled that. In any case, Commissioner Matthews asked that this issue be revisited for revising the ballot clerk script and/or training on this issue so that people who don't need to use the disabled-accessible equipment at least understand that they have the choice to mark their ballots with the pens. Commissioner Matthews's opinion was that he saw enough voters who thought that they were being advised to use the AutoMark rather than merely offered the choice of it - and they were mostly dissatisfied with their voting experience -- that it is worth further exploring by the Department of Elections.

(b) Ballot secrecy after voting. In about one-third of the polling places that Commissioner Matthews visited, there were varying degrees of pollworkers touching voted ballot cards, for example feeding them into the Eagle scanners. There were a handful of occasions he observed when the Eagle scanner would beep and give the alarm about the ballot card, and rather than reading the tape or the script, the Eagle clerk would come around to the front of the scanner and look at the voter's ballot to detect what the issue was. A lack of sensitivity to secrecy of a voted ballot card is probably a training issue.

(c) In about half the polling places Commissioner Matthews visited, there was some confusion on the part of the Eagle clerk as to what to do when the Eagle signaled some issue with the ballot card. They were not consistently following the script, and seemed somewhat surprised that the machine beeped, despite over 80% of ballots triggering this signal all day.

(d) Red Box seals. There was a wide disparity of how or even whether to secure the red box among polling places Commissioner Matthews visited. Some had no seals on the box, and several had a seal only on one side of the box, thus rendering it completely unsecured. This is a training issue.

(e) The Voter Information Kiosk. Commissioner Matthews again expressed how much he likes the newly introduced kiosk, that it was very helpful for organizing the tables at the polling places, and that it was a great idea.

Commissioner Gleason reported that he served as a pollworker (inspector) on election day. As usual the department did a terrific job organizing the election. The precincts were well supplied this year, and the Commissioner commended the department on the innovative information kiosk which was easy to set up and was a big help with consolidation of space needed to post voter information. He concurred with Commissioner Mathews on voter confusion with the purpose of the Automark machine...noting that the brand name "AutoMark" is a bit of a misnomer. He stated that he continues to be truly disturbed with the

situation of the wholesale hand duplication (remaking) of 110,000 ballots and considers the Secretary of State to be in error ordering the massive number of remakes, which are typically only used in extreme cases of not being able to process a ballot. Last, he said he believes the Commission should look into the issue of voters who arrive at the polls, to not find their name on the roster. Many of these voters state they register to vote with DMV motor-voter. The expectations of these voters are not being met and this is in fact systematic denial of voting to such individuals.

President Meek reported that she observed the media reports on election day, talked to people in her neighborhood about their voting experiences, observed the ballots being processed and was disappointed in the low voter turnout.

Public Comment. *Alec Bash* complimented Debra Bowen on doing an excellent job. He said the problem with RCV may be that the ink pens were not working correctly during the testing earlier in the year. Mr. Bash reported that he helped to register 250 new American citizens and suggested that new citizens not be sworn in on Election Day so that the Department of Election can help to register more new voters. *Tim Meyer* said the U.S. standard should be complete transparency. *Steven Hill* said the Secretary of State may do other things to effect elections in the future and accused her of not doing her homework and said she should have contacted San Francisco for input and suggestions. *Brent Turner* said some press reporters appear to him to be "pro-Sequoia".

1. NEW BUSINESS

- Discussion and possible action to start full Commission meetings at 6 pm.

President Meek MOVED and Commissioner Matthews SECONDED this discussion. Vice President Townsend said that he had concerns that the public might be inconvenienced by a 6:00 pm start time for Elections Commission meetings. Commissioner Matthews reminded the members that the Election Commission only meets one night a month and that other Commissions meet earlier throughout the day.

Public Comment. *Alec Bash* said that he knew of several Commissions who meet early in the day, including the Ports Advisory Commission and the Planning Commission.

A Roll Call Vote to was: Yu – yes; Shah – no; Matthews – Yes; Gleason – Yes; Townsend – No; and Meek – Yes. The MOTION PASSED 4 to 2.

- (b) Discussion and possible action to approve the minutes of the October 17, 2007 Elections Commission meeting. Commissioner Matthews MOVED and President Meek SECOND approval of the minutes.

The ROLL CALL Vote was UNANIMOUS to approve the October 17, 2007 minutes.

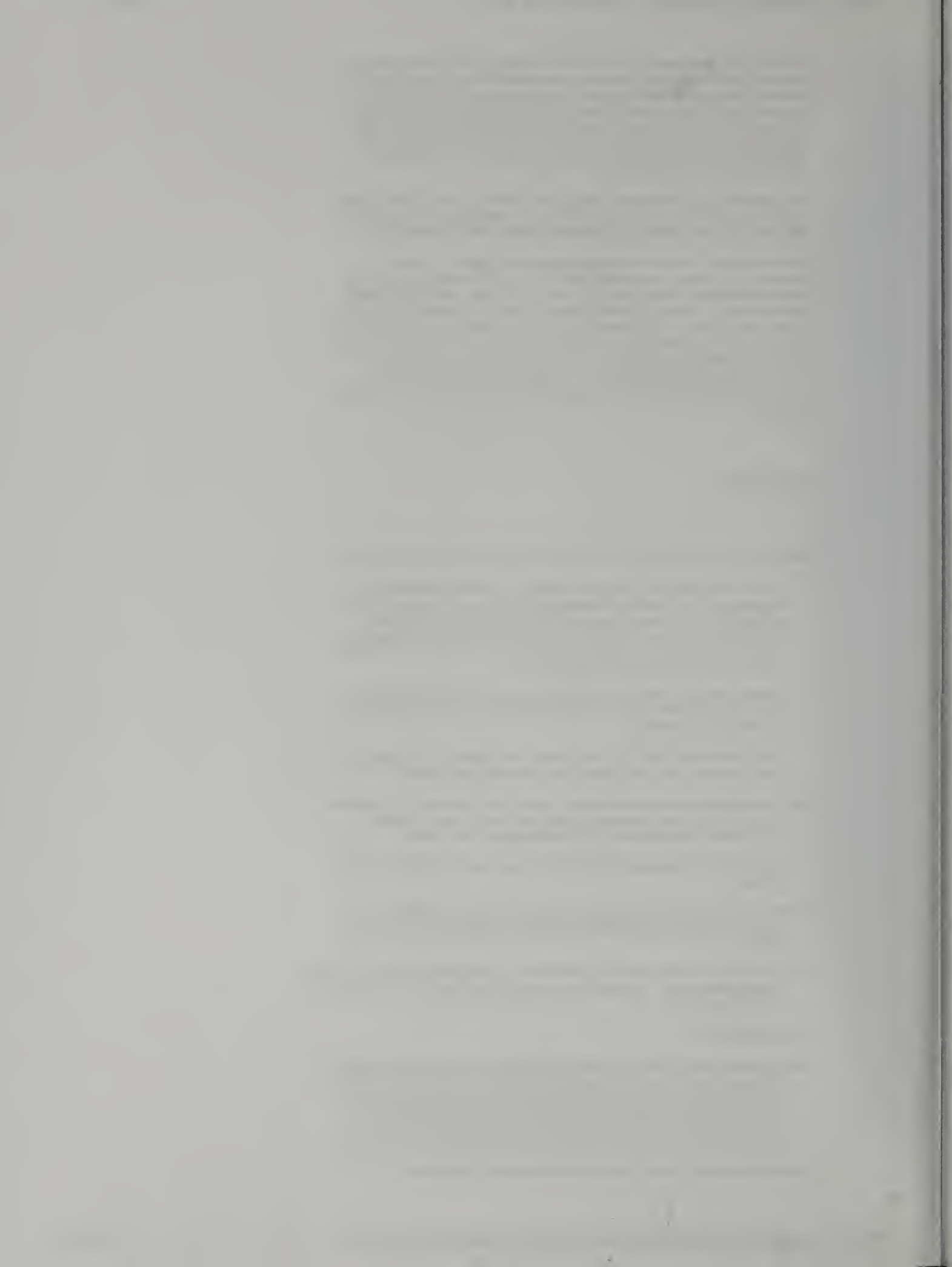
- (c) Discussion on assessing effectiveness of November 7, 2007 Election Plan. President Meek asked that this item be TABLED to the Call of The Chair.

- (d) Discussion on effectiveness of November 7, 2007 Election Plan activities completed thus far. President Meek asked that this item be TABLED to the Call of The Chair.

OLD BUSINESS

- (a) Discussion and possible action regarding securing a voting system for 2008 elections. Commissioner Shah MOVED to support the signing of the Sequoia Systems contract by sending a letter to the Board of Supervisors, and Commissioner Matthews SECONDED the MOTION. Commissioner Gleason said that he wants to communicate to the Board of Supervisors that we support San Francisco getting a voting system as soon as possible.

Public Comment. *Brent Turner* read from the printed information he



presented to the Commission regarding open source voting machines. *Tim Meyer* said we already have a voting system and that not having a source code has cost votes in other cities. He cautioned to never buy "proprietary machines". *Alec Bash* spoke against sending the letter of support for the contract and said there was nothing in the new parts of the contract for security.

The ROLL CALL VOTE was UNANIMOUS to send a letter to the Board of Supervisors supporting the signing of the Sequoia Systems contract.

9. Discussion regarding items for future agendas.

Commissioner Matthews suggested the subject of Commissioner access to election procedures be on a future agenda.

ADJOURNMENT at 7:05 pm.

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ELECTIONS COMMISSION
City and County of San Francisco

Jennifer Meek, President
Arnold Townsend, Vice President
Gerard Gleason
Richard P. Matthews
Michael Mendelson
Tajel Shah

John Arntz
Director of Elections

Shirley Rodriques
Commission Secretary

MEETING CANCELLED

Elections Commission Regular Meeting
Wednesday, November 21, 2007 at 7:00 pm
City Hall Room 408

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NEW SPECIAL MEETING

Elections Commission
Tuesday, November 20, 2007
5:00 pm
City Hall, Room 034

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ELECTIONS COMMISSION
City and County of San Francisco

Jennifer Meek, President
 Arnold Townsend, Vice President
 Gerard Gleason
 Richard P. Matthews
 Tajel Shah
 Winnie Yu

John Arntz
 Director of Election

Shirley Rodriques
 Commission Secretary

SPECIAL MEETING
Elections Commission Meeting
Tuesday, November 20, 2007 at 5:00 pm
City Hall Room 034

ORDER OF BUSINESS

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **FLAG SALUTE**
4. **ANNOUNCEMENTS**
5. **Public comment** on any issue within the Elections Commission's general Jurisdiction

6. **Director's Report**

• **Division Updates**

• Ballot Distribution	• Poll Locating/ADA
• Budget/Personnel	• Poll Worker Division
• Campaign Services	• Technology Division
• Outreach	• Voter Services
• Publications	• Ballot Simplification Committee

- Update on the November 7, 2007 Municipal Election
- Update on securing a voting system for February, June, and November 2008 elections

7. **Commissioners' Reports**

- Meetings with public officials

- Oversight and Observation activities
- Meetings with nongovernmental organizations
- Long-range planning for Commission activities and areas of study

8. NEW BUSINESS

- (a) Discussion and possible action to start full Commission meetings at 6 pm.
- (b) Discussion and possible action to approve the minutes of the October 17, 2007 Elections Commission meeting.
- (c) Discussion on assessing effectiveness of November 7, 2007 Election Plan.
- (d) Discussion on effectiveness of November 7, 2007 Election Plan activities completed thus far.

9. OLD BUSINESS

- (a) Discussion and possible action regarding securing a voting system for 2008 elections.

10. Discussion regarding items for future agendas

ADJOURNMENT

Disability Access

The Elections Commission meeting will be held in Room 034, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA. The Commission meeting room is wheelchair accessible. The closest accessible BART station is the Civic Center Station at United Nations Plaza and Market Street. Accessible MUNI lines serving this location are: #42 Downtown Loop, and #71 Haight/Noriega and the F Line to Market and Van Ness and the Metro Stations at Van Ness and Market and at Civic Center. For information about MUNI accessible services call (415) 923-6142. There is accessible curbside parking adjacent to City Hall on Grove Street and Van Ness Avenue and in the vicinity of the Veterans Building at 401 Van Ness Avenue adjacent to Davies Hall and the War Memorial Complex.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week: For American sign language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact The Elections Office at (415) 554- 4375 or our TDD at (415) 554-4386 to make arrangements for the accommodation. Late requests will be honored, if possible.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals. Individuals with chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-6060.

Know your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, CLERK, CITY HALL, ROOM 409, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683 AT PHONE NO.: (415) 554-7724; FAX NO.: (415) 554-7854; E-MAIL: DONNA_HALL@CI.SF.CA.US. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.ci.sf.ca.us.

Materials contained in the Commission packets for meetings is available for inspection at the Elections Department, City Hall Room 48, in the Commission's Public Binder, no later than 72 hours prior to meetings.

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Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300, fax (415) 581-2317; web site at www.sfgov.org/ethics.



ELECTIONS COMMISSION
City and County of San Francisco

Jennifer Meek, President
 Arnold Townsend, Vice President
 Gerard Gleason
 Richard P. Matthews
 Tajel Shah
 Winnie Yu

John Arntz
 Director of Election

Shirley Rodriques
 Commission Secretary

Elections Commission Meeting
Wednesday, December 19, 2007 at 6:00 pm
City Hall Room 408

ORDER OF BUSINESS

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **ANNOUNCEMENTS**

5. **Public comment** on any issue within the Elections Commission's general Jurisdiction

6. **Director's Report**

• **Division Updates**

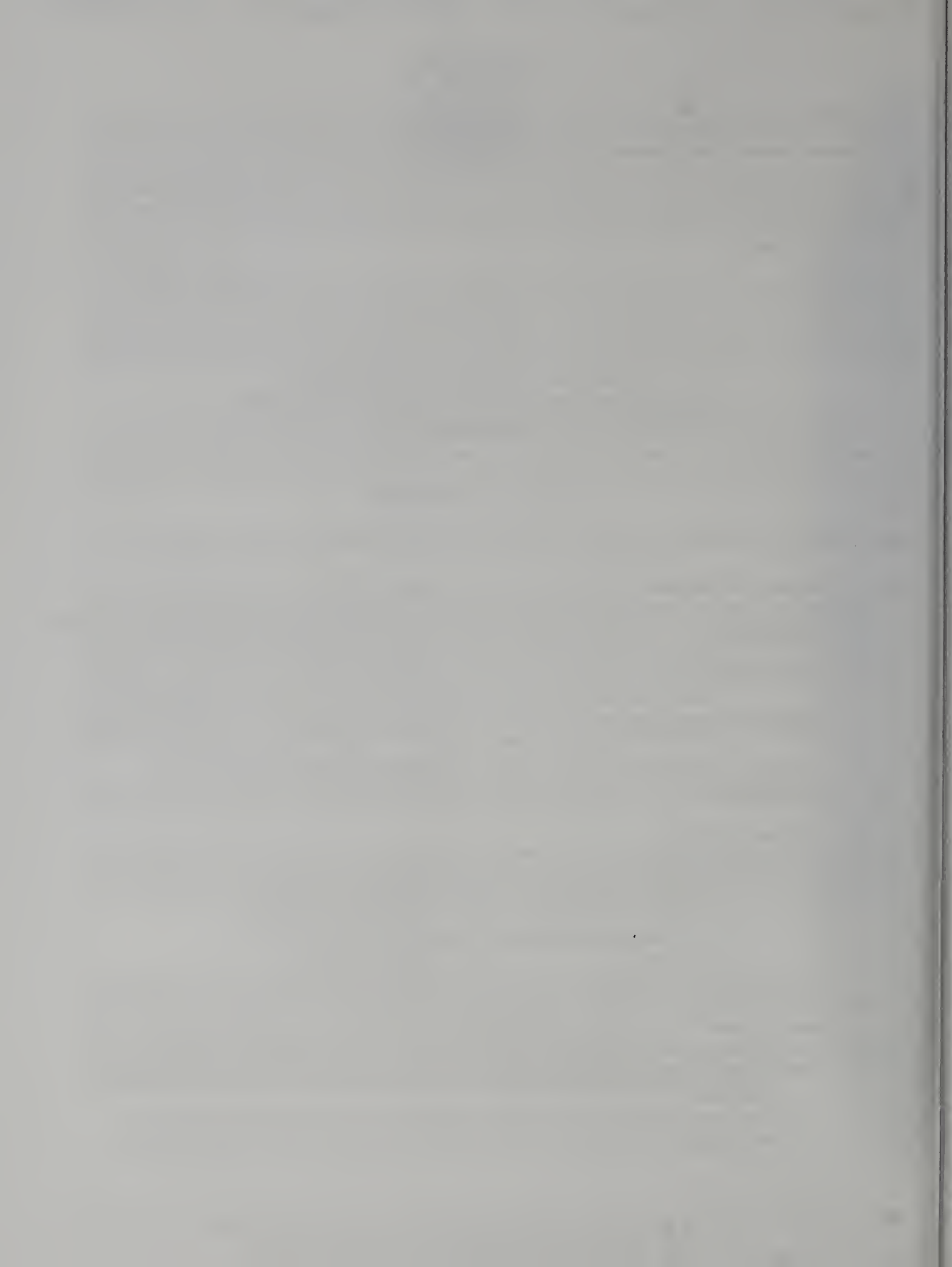
• Ballot Distribution	• Poll Locating/ADA
• Budget/Personnel	• Poll Worker Division
• Campaign Services	• Technology Division
• Outreach	• Voter Services
• Publications	• Ballot Simplification Committee

- Update on the certification of the November 7, 2007 Municipal Election
- Update on securing a voting system for February, June, and November 2008 elections
- Update on including use of Eagle data for post-canvas audit of equipment
- Presentation of the Election Plan for the February 5, 2008, Primary Election

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7. Commissioners' Reports

- Meetings with public officials
- Oversight and Observation activities
- Meetings with nongovernmental organizations
- Long-range planning for Commission activities and areas of study

8. NEW BUSINESS

- (a) Discussion and possible action to approve the minutes of the November 20, 2007 Elections Commission meeting.
- (b) Discussion and possible action regarding a policy that the Department advises voters to use paper ballots and not the DRE that will be available at the precincts.
- (c) Discussion and possible action on the subject of Commissioner access to election procedures and improvement of communication between the Department and the Commission
- (d) Discussion and possible action to propose a policy to the Director about revisiting the SoS's conditions for the February and June 2008 elections, taking into consideration the effectiveness of those conditions in the November 2007 election
- (e) Discussion and possible action to amend Article V, Section 2-E of the by-laws from "The President shall present a draft of the annual report to the full Commission in July of each year and the annual report shall be approved by the full Commission no later than August 31 of each year." to "The President shall present a draft of the annual report to the full Commission in December of each year and the annual report shall be approved by the full Commission no later than January 31st of the following year."
- (f) Discussion and possible action to amend Article VI, Section 3 of the by-laws from "The Commission shall conduct performance reviews for the Director of Elections and the Executive Secretary during each fiscal year." to "The Commission shall conduct performance reviews for the Director of Elections and the Executive Secretary during each fiscal year beginning the fiscal year for 2009."
- (g) Presentation and discussion of the President's Report for 2007.

10. Discussion regarding items for future agendas**ADJOURNMENT**



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Elections Commission

December 19, 2007

City and County of San Francisco Elections Commission

Approved: January 16, 2008

Minutes of the Meeting held

December 19, 2007

DOCUMENTS DEPT

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1. President Meek called the meeting to order at 6:09 pm.
2. **COMMISSION MEMBERS PRESENT:** Commissioners Arnold Townsend, Gerard Gleason, Richard P. Matthew, Winnie Yu, Jennifer Meek, Deputy City Attorney Ann O'Leary and Director John Arntz. **EXCUSED:** Commissioner Tajel Shah.
3. **ANNOUNCEMENTS:** President Meek introduced the Commission's newest appointee, Joseph B. Phair. Commissioner Phair gave a brief history of his employment and said that he was happy to be on the Commission.
3. **PUBLIC COMMENT.** *Dr. Ahimsa Porter Sumchai*, a candidate for Mayor in the November election who lives in district 4, said that she filed a complaint at the Department of Elections regarding not receiving a VIP (Voter Information Pamphlet) in her mail a week before the election. Her VIP arrived on Saturday, November 3, 2007. Sumchai said that when she visited the department, she signed a list that contained the names and precincts of other voters who had the same complaint. Additionally, she was a ballot proponent in the June 2006 for the La Honda Hospital measure and she said didn't receive her VIP for that election and filed a complaint at that time. She said that, as a candidate, she was concerned that the failure of voters to receive their VIPs favored incumbent candidates. She suggested there might have been "some deliberate effort to engineer the election", and she filed a complaint with the SOS (Secretary of State's Office). Dr. Sumchai asked for documentation of the scope of missing and delayed VIPs for the November 2007 election, and what the Department plans to do about this problem in the future.

Director Arntz said that the DoE (Department of Elections) sent out 420,000 VIPs but wasn't prepared to state how many complaints have been received. He will provide the total complaints to the Commission. Commissioner Gleason asked if the command center report of complaints received include the list of VIP late and/or non-arrival complaints, in the future. Director Arntz agreed to include this information in the future.

David Pilpel said that he lives in District 4, as well, and did receive his VIP and absentee ballot in a timely fashion. He asked when the effectiveness of the November election would be discussed by the Commission. President Meek replied that the item had been removed from this agenda because of the extensive Director's Report of the

November election, because it was delayed. The effectiveness of the election will be heard at the January Commission meeting. Mr. Pilpel asked that the names of the Commissioners who originate new business items be noted on these agenda items. He suggested that the DoE save one of the old ES&S (Elections Systems and Software) machines for a City Election History Archive. Finally, Mr. Pilpel suggested that the Commission might want to send a letter to the state regarding its failure to follow its own legal deadlines for submission of measures and referenda for elections. He said these late additions have an impact on Counties and their ballot design and translations on these additions. These delays effect the completion and mailing of the VIPs.

Alec Bash reminded the Commission of Supervisor Ammiano's proposed Task Force to explore open source code. He said he knows people who would like to serve on this Task Force and he hopes the Elections Commission will have input as well.

Brent Turner supplied an email from Brian Behlendorf, who he said is a good candidate for the proposed Task Force on open source code. Mr. Turner also suggested Alan Dechert and Jim March as possible members. He said anyone interested in intellectual property rights must be excluded from the proposed Task Force. Additionally, he said that garbage cans should not be near areas where votes are being counted and reminded the Commission of an occurrence in Solano County where a ballot was allegedly found in the trash.

4. **Director's Report.**

Ballot Distribution: Ballots will be arriving Friday, and staging of them will be in Brooks Hall instead of 240 Van Ness where the Department of Building Inspection has said is unsuitable. The DoE now has a lease for Pier 48, located near the ballpark, and the Brooks Hall and 240 Van Ness operations will be conducted there after February.

Budget and Personnel: The Sequoia Voting Systems contract is now completed. On Tuesday, the Port approved MOU (Memorandum of Understanding) for the DoE to rent Pier 48 for three years with an option for one more year. There's a "not to exceed" the year 2013 time frame option on this contract. At the new pier location there will be build-out for a secure, fenced, alarmed (for police and fire) site for staging and storing of ballots. The Director thanked the President and members of the Board of Supervisors for their efforts to get the new location for the

Campaign Services: Guides for the June election are being prepared as well as the phone bank. The signature-lieu filing period begins next Friday for that election. There will be a judicial candidate workshop on January 24. There is a new law that requires persons who circulate petitions to wear a badge identifying whether they are paid or unpaid circulators. This division is working on the format for dispensing these badges.

Outreach: Information on the new voting systems is being distributed to community groups. Additionally, information for the monthly publication of the Lighthouse for the Blind, and advertisements in neighborhood papers including various language specific neighborhood publications is being dispersed.

Publications: The VIP will be at the post office starting December 28, 2007. The ballot for the February election will be one card.

Poll Locating/ADA: The division has a self-imposed deadline of this Friday to locate all polling sites (twenty more

locate by then). Letter have been sent to all current locations to make sure those responsible for the sites are signed up ready to go for the next election. Logistics and procedures for the new voting equipment are being planned.

Pollworker Division: Training classes begin January 12th. The new voting machines are being examined to prepare for training for these classes. The division reports that it has 68 per cent of the workers needed and they are experiencing a retention rate of 78% of the November 2007 workers.

Voter Services: Signatures must be checked on two state petitions which have recently come into the division. thousand overseas ballots must be mailed. The file for the mailing of the absentee ballots (135,000) has been sent to the new voting machine vendor. The data base of registered voters is being updated.

The Director reported that there have been daily meetings with Sequoia Voting Systems to be familiar with the new system and what is required to get the system implemented. The old ES&S equipment has been emptied from the computer room and the server and desktops have been packaged and moved to Brooks Hall. The new equipment will be arriving next week. Installing this equipment, getting it on line and getting the data base installed will be the first step for getting the equipment ready for our next election.

One requirement from the SoS for the February election is that all the software and firmware must be "re-burned" (re-installed) on the voting system with the files from the SoS's office to ensure that nothing has been compromised. All optical scan machines will arrive in January but the touch screens we will be using will be borrowed from Riverside County because it isn't time to do all the acceptance screening necessary before the February election. The Riverside machines have already been acceptance tested.

The Director said that although voters will be voting with new equipment the ballot cards will be familiar because they are the same as they have been using for the past seven years.

Commissioner Matthews asked if it was true that the mailing deadlines for items like the VIP are the dates that the Registrar must deliver the materials to the post office, NOT by which dates the voter must receive the materials. Director Arntz responded that this is correct. He said the Department cannot control when the voter receives the mailed voting materials.

President Meek referred to the concern of one public comment speaker regarding the SoS's own deadlines not being met. He asked the Director if the late arriving information will effect the DoE's preparation for this February's election. Director Arntz said that there was no problem this time but late submissions from the SoS could effect a future election.

President Meek asked the Director if there was anything the Commission could do to help secure Pier 48 for the Department in the future. Director Arntz replied that there was nothing more that can be done currently because the area is considered a development zone.

Commissioner Gleason said that he was concerned about the inspectors picking up the ballots at Pier 48 instead of City Hall because of the transportation problems the pier may present. Director Arntz said that the distribution of the ballots to the inspectors would continue at the old 240 Van Ness (which doesn't have a sprinkler system) location because the ballots

would only be there for a short time minimizing and the possibility of a devastating fire.

The Director added that a tent could be raised at Pier 48 for Pollworker Training, and the canvassing could also be held at that site, and ideally the cards could be stored there rather than having to be shipped to Alameda.

Update on the certification of the November 7, 2007 Municipal Election:

The election was certified on December 11, three days later than the 28 day allowed under the code. The reason was that there was a discrepancy between the hand count of some of the measures when compared to the machine count. The difference exceeded the threshold limits that the SoS set when she conditionally certified our voting system. The discrepancies were mostly seen in the absentee ballots where voters used various writing instruments.

The Department had 80 people working 18 hours a day for three days, then the staff worked 12 hours days, and as the day deadline neared and we shared our approach for the tally with the SoS, we were told that we were looking at the information incorrectly and must expand our hand count. The DoE went to the Superior Court and requested an extension of seven days which was granted, but we only needed to use three of the seven days.

Commissioner Gleason asked if the absentee ballots had previously been counted in the 1 per cent tally. Director Arntz replied that they had not, but the law has been changed. Commissioner Gleason said that he couldn't understand why the absentee ballots, which are about 50% of all the ballots cast, have not been part of the 1 per cent tally. Director Arntz said that he believes this is why the law was changed, to reflect the increase in voters voting absentee.

Commissioner Townsend said that he had been in favor of the SoS's recent requirements because of the problems with ES&S and other companies and that the conditions, although a hardship on the DoE, made sense. Without those requirements, the extent of the failure of the machines would not have been known.

Commissioner Matthews congratulated the Department on being able to handle the SoS's conditions. He said that he had made numerous visits to DoE locations during the process and was impressed by how well everyone worked.

Update on including use of Eagle data for post-canvas audit of equipment:

Mr. Arntz said that this hasn't been a priority and is not completed but he has formatted how the data will be recorded. The person who would be doing this is also the project manager for the new system. The audit, hopefully, will be completed next week. The SoS is also interested in seeing the results.

Presentation of the Election Plan for the February 5, 2008, Primary Election:

The draft is expected to be completed by the first week of January. He explained that even after that week, some items in the plan will be changed.

Public Comment. *David Pilpel* said that he had expected to hear something about the Budget preparations for 2008-09 at the Director's Report. He said that he hoped it would be on the next agenda. President Meek said that it would be. *Brian Turner* said that the borrowing of machines for the next election was evidence that the City could have borrowed Sequoia



machines instead of purchasing them. He said that this purchase of Sequoia Voting Systems equipment was not a time celebration and he applauds the SoS for increasing the protocols for this system.

5. Commissioner Reports. Commissioner Townsend reported that his term as Commissioner is up this year and that had a call from the Mayor's office and was advised that if he wanted to be reappointed, this could happen. The Commissioner said that he is willing to be reappointed and that he was disappointed to find that a member of the Comm had lobbied the Mayor's office for his non-appointment.

6. NEW BUSINESS

(a) **Discussion and possible action to approve the minutes of the November 20, 2007 Elections Commission meeting.** Commissioner Matthews MOVED and Commissioner Gleason SECONDED approval of the minutes.

Public Comment. Brent Turner requested the audio tapes of the November 20, 2007 meeting so that he could make notes of his comments in that meeting which can be added to these minutes. The Commission Secretary informed Mr. Turner that those tapes do not exist because the audio recording equipment failed during the meeting and these minutes were constructed from handwritten notes taken during the November 20th meeting by the Secretary.

The Roll Call Vote was UNANIMOUS.

(b) **Discussion and possible action regarding a policy that the Department advises voters to use paper ballots instead of the DRE that will be available at the precincts.** This item was requested by Commissioner Matthews. The Commissioner asked the Director about the informational script pollworkers are provided regarding inviting voters to use the ADA equipment. Director Arntz said that the City had new equipment at the polling sites that was meant to be accessible for people with disabilities and the law requires that persons not be singled out due to their disability. The Director said that it was decided to provide the same information and opportunity to all voters and not single out a voter because it was perceived that that voter had a disability that required the new equipment.

Commissioner Matthews said that although he appreciates the intent, his concern was that the language being conveyed to voters at the sites is more open and more inviting than expected. The language does not explain that the machine is for people who might find using the paper ballot difficult (or language to that effect). There is no education to the voters about why the other machine exists. Commissioner Matthews said that most of the voters he saw using the AutoMark didn't need to use it and later when they were informed that they didn't have to use it, were frustrated because they hadn't found it a good experience – since they could have completed their voting in less time by using paper.

Deputy City Attorney O'Leary reminded new members of the Commission and the audience that the reason there is one touch screen machine at each voting site is because of the Help America Vote Act (HAVA) which requires that there be one machine that disabled voters can use privately and independently and a voter does not have to disclose that he or she has a disability in order to use the DRE machine. Deputy City Attorney O'Leary said that the Commission could request that the Director make available the scripts that the pollworkers are given for review, but she cautioned, that the Commission take care that it is complying with the accessibility and disability rights of voters.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical analysis performed.

3. The third part of the document presents the results of the study. It includes a series of tables and graphs that illustrate the findings of the research. The data shows a clear trend in the relationship between the variables studied.

4. The fourth part of the document discusses the implications of the findings and provides recommendations for future research. It suggests that further studies should be conducted to explore the underlying mechanisms of the observed phenomena.

5. The fifth part of the document is a conclusion that summarizes the main points of the study. It reiterates the importance of the research and the need for continued investigation in this field.

Commissioner Matthew agreed. He said that when he spoke to voters after their experience using the AutoMarks, he found that the voter felt that they were not informed but were invited to use the machines. They would have made a different choice had they been better informed about what they were about to experience.

Commissioner Gleason said that he would like this issue fully discussed and that the issue is that the machine is a DRE, not the AutoMark. The difference being that it tabulates the vote in the machine. He said that the script that the DoE has made available is fair and "even-handed", but that he doesn't believe the voters or the pollworkers understand this. The Commissioner said that an accommodation is like the sign on MUNI that lets riders know that the front seat should be made available for seniors and persons with disabilities. Every MUNI rider is aware of this policy and he said that he sees no problem with this notification. As another example, the Commissioner said that City Hall has ramps from the street that anyone can access who needs the ramp or who does not. He said that the voting machines are different – these machines are not the same because one tabulates the vote - and it is important that voters know this. The Commissioner said that this needs to be fully discussed and that he hopes to have a policy in time for the February Primary Election.

Commissioner Townsend said that the Commission and Department should be careful in directing voters to what they "ought to do." He said that he would not use the DRE because it tabulates the vote, but if a voter knows about the tabulation and wants to use it, he or she should be able to do so.

Deputy City Attorney O'Leary stated that the Commission has the role of hearing and inquiry. If the Commission wanted the Director to provide the script that is given to the pollworkers, this request can be made. She said the Commission must always be clear about what it wants from the Director. The Commission has the right to appoint someone to look into this issue and more fully evaluate this issue, and the person would have to work through the Director. The Commission can set policy, but it can not get into the day-to-day operations of the Department, however, it can encourage the Department to do something.

Commissioner Gleason said he would look into this issue but was concerned about the timeline needed before the February Election. It is possible that the San Francisco Elections Commission may not do anything about this issue and instead it should be handled by the SoS.

Commissioner Matthews MOVED and Commissioner MEEK SECONDED that Commissioner Gleason will meet with Director Arntz and inquire and investigate the instructions that voters are given at polling sites regarding the use of disabled access equipment versus the use of the paper ballots.

Public Comment. *Alec Bash* said that he supports this action and that he had reports that there were long lines of voters waiting to use the DRE machines on election day. He said that the track record of these machines is worse than the optical scan equipment and provides for a more difficult recount. He suggested telling voters that one type of equipment will provide a paper ballot record of your vote while the other will not. *Bret Turner* said that sometimes the DRE is a red herring because the focus should really be on the central tabulator. However, he said that the paper ballot is the preference of the City. He suggested a placard at polling sites near the DRE machines of the SoS's statement that the machines have been proven vulnerable.

The Roll Call Vote was UNANIMOUS.

(c) **Discussion and possible action on the subject of Commissioner access to election procedures and improvement of communication between the Department and the Commission.** President Meek reminded members that this topic was suggested by Commissioners Shah and Matthews. She explained that there have been access problems in the past, and recalled that the Commission had full access except for the Computer Room during elections. This year the Commissioners reported that they did not have the same access as years previously for oversight purposes. In addition, Commissioners feel that they are not updated regarding the workings in the Department.

Deputy City Attorney O'Leary stated that the motion passed by the Commission in the past was that the Commission would request from the Director the passes they would use. This is important because the City Attorney has consistently provided this information to other Commissions regarding their roles and responsibilities under the Charter. The Commission is charged with setting the policies of the Department and the Department Head is responsible for the day-to-day management and administration of the Department. The Charter is clear that individual members of the Commission cannot act on their own. However, the body can appoint someone to make an inquiry. The Commission can use its power of hearing inquiry to learn more by calling the Department Head or any member of the Department to learn more about issues. But the Department Head has the ability to make decisions about access to the Department.

Commissioner Matthews said that looking at Charter Section 103.5 the Commission was created to oversee the Department, and that it shall be responsible for the proper administration of the general practices of the Department and that these duties shall include, but not be limited to, approving plans as well as assessing how well the plan is carried out to ensure a free, fair and functional election. The Commissioner said that it appears that it is implied that there be certain privileges of access and being able to observe activities in order to evaluate and carry out the Commission's Charter created responsibilities.

Deputy City Attorney O'Leary said she wanted to clarify that Charter Section 103.5 should be read in tandem with Section 4.102 which sets the general powers and duties of all City Commissions. This section explains how oversight and analysis are conducted. The Deputy City Attorney said the sections make it clear that Commissioners do not possess the power to conduct individual oversight. However, if the Commission wants an individual Commissioner to observe certain activities, the Commission must have a majority vote to allow that Commissioner to do so, and that Commissioner must work with the Department head to make those observations. Section 4.102 states that the Commission can hold hearings and take testimony regarding concerns, but it also makes it clear that the Commission is restricted in terms of administrative affairs. For the record, the Section reads: ***Each board or commission, relative to the affairs of its own department, shall deal with administrative matters solely through the Department Head or his or her designees, and any dictation, suggestion or interference herein prohibited on the part of any member of the board or commission shall constitute official misconduct provided however that nothing herein contained shall restrict the board or commission's power of hearing or inquiry as provided under the Charter.***

Commissioner Townsend said that with the before stated section, the Commission can put this issue to bed. He said that it is important for the Commission to stay out of the way of the Department and let the staff do their jobs.

Commissioner Gleason said that the issue is oversight of the election. Other counties in the state do not have citizen bodies like this Commission to oversee their elections. One example, Commissioner Gleason gave, is that he wasn't (and the other Commissioners weren't) aware that the absentee ballots were not counted in the canvass! He said that he did want to hold a hearing and inquiry, he wants to see the canvass, and if not, he wants to hear from someone who has seen the procedure. In the last few years when the numbers of permanent absentee voters have grown to half of all voters in this county, these votes were not counted in the canvass. This is the kind of example where citizen oversight is important.

The Commissioner said that he doesn't see any danger in the Director allowing seven citizen-ambassadors (the Commission), controlled by the Director, to come in and see what goes on during an election and report it back – this a p for the public.

President Meek said that the Commission should be more specific in what it wants to observe, and needs to approve wh are the Commission's representatives for these observations.

Commissioner Matthews said one issue which concerns him is the secrecy of the voted ballot. The envelope that contain the voted ballot has the voter's signature on the outside. The policy that the DoE instituted in 2003 requires workers who extract the voted absentee ballots from these envelopes with the voter's information on the outside, turn the side of the envelope with the information face-down, so that when they pull out the ballots, the information about the voters is not visible. The Commissioner said that this secrecy of ballot is important to him. This extraction procedure happens in a office, down a hallway, that was off limits to him during the last election. He had to stand behind a rope at the end of the hall, and the activity inside the room was not visible. In the past, he was able to see the procedure of the voter's information being kept secret a large majority of the time, but occasionally there were batches when this was not the case. Commissioner Matthews said that this was just one example of an activity he wants to observe during an election.

Commissioner Phair asked the Director if it is possible for Commissioners to be observers because it is through observation that questions arise. Deputy City Attorney O'Leary replied that the Director does allow open access to the elections process, and Commissioners receive badges that allow them to observe most of what happens on election day. The Commission feels that the areas where they can make observations needs to be expanded, then it can ask the Director to explain the badge policy.

Director Arntz said that the issue is not to bar people from observing the DoE, the issue is that everyone, who doesn't work for the Department, have an escort when they are observing an area of the Department. The Commission should have unfettered access throughout the DoE to observe the operations at anytime with an escort. Depending upon how busy everyone is, an escort may take a few moments to arrive, especially on election day.

Commissioner Matthews agreed that the presence of an escort would not be a problem, however he wanted to be certain that with an escort he would be able to observe areas, like the extraction room. Director Arntz replied that he hasn't restricted observations with escorts, but has recently added restrictions to the process, like needing escorts, which may have given the impression that certain observation areas were restricted. The director said that he was certain that things can be worked out to allow the Commissioners to see any operation they request at anytime, as long as it is within the protocols for observations.

Commissioner Matthews said he didn't mean to imply that the Director restricted him from seeing inside the extraction room, but that the person assigned to escort him specifically said that the Commissioner was to stand behind the velvet ropes. The Commissioner asked the escort if he could go and look inside the room because he couldn't see it from behind the ropes and was advised by the person that he couldn't.

Commissioner Gleason said that the observations of the Commission were for the protection of the voter.

Commissioner Phair said that he agreed and, as a new Commissioner, he wants to work with the Director to get a better

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idea of how the DoE operates and if there are issues with which the Commission can assist the Department.

Commissioner Gleason MOVED to have on the next agenda areas of inquiry for oversight and areas of interest for the upcoming election.

Commissioner Matthews asked the Deputy City Attorney if specific areas of interest for observations by the Commission could be placed in the Commission's Bylaws. Deputy City Attorney replied that this can be done and that the Commission should decide, before each election, which Commissioner it wants to assign to the specific area(s).

President Meek MOVED this item to the BOPEC Committee (Budget and Oversight of Public Elections Committee) for it Wednesday, January 2, 2008, 5:00 pm meeting. The Committee is to establish a list of items for observation at each election which will be assigned to a member of the Commission, and the bylaws amendment for these observations.

Commissioner Phair suggested that the list of areas for observations may change for each election.

Deputy City Attorney O'Leary suggested that the Commission look at the election plan and determine areas for observation.

Public Comment. *Brett Turner* said that during the last election he was escorted to view the extraction room in the last election and that he has observed many elections in other counties. He said that he was responsible for closing the Sar Mateo County audit because he observed table counts that were not happening in the order it should have been. *Davis Pilpel* said that at the July 5, 2003, Elections Commission Retreat, there was a power point presentation by Deputy City Attorney Julie Moll that may be helpful to explain the roles and responsibilities of the Commission and covered this topic. He said that the Charter language for the Elections Commission is different from other Charter boards and commissions. There are ways to exercise the powers of inquiry, and that the three main functions of the Commission are to appoint the Director, adopt and evaluate election plans, and set general policies for the Department. *Alec Bash* applauded the Commission's efforts to oversee elections and said he looks forward to seeing what approach comes from the BOPEC meeting in January. He thanked the Commission for taking seriously its responsibilities.

(d) Discussion and possible action to propose a policy to the Director about revisiting the SoS's conditions for the February and June 2008 elections, taking into consideration the effectiveness of those conditions in the November 2007 election. The President stated that since the Sequoia contract has been approved and the SOS hasn't placed any conditions for the new system at the present time, this item was TABLED.

Further discussion on this item included Commissioner Gleason asking that there be discussion regarding the SOS's condition that if one person uses the DRE at a polling place, then the pollworkers have to find five (5) additional voters to use the DRE at that site. The purpose of this SOS condition is to ensure the anonymity of the voters. Deputy City Attorney Ann O'Leary said that she will send this information (certification requirement for Sequoia) to the Commissioners via email.

Commissioner Matthews asked if a representative of the SOS could be invited to the meeting to explain this unusual

requirement.

Commissioner Townsend asked if the Commission would send a letter to the SOS to thank her for the conditions she imposed on the City's November 2007 election because, in hindsight, those conditions now make sense. In connection to the above condition, the Commissioner said he would be inclined to accept those conditions because she has been shown to have a good track record.

Public Comment. *David Pilpel* said that the Commission was taking the correct approach regarding the conditions on the Sequoia conditions, and agrees, with Commissioner Townsend, that the conditions the SOS imposed for last November served the City well. *Brent Turner* said that Walt Saltman, has said that the certification process is broken and can't be repaired due to secret software.

(e) **Discussion and possible action to amend Article V, Section 2-E of the by-laws from** "The President shall present draft of the annual report to the full Commission in July of each year and the annual report shall be approved by the full Commission later than August 31 of each year." to "The President shall present a draft of the annual report to the full Commission in December of each year and the annual report shall be approved by the full Commission no later than January 31st of the following year."

This item was CARRIED OVER to allow a 15 day posting and to change wording of "December" to read "November" and for "January" to read "December 31st of that year" in the proposed text of this amendment. Deputy City Attorney O'Leary will advise the Commission whether there is a new requirement that annual reports cover the calendar year at the Commission's next meeting.

(f) **Discussion and possible action to amend Article VI, Section 3 of the by-laws from** "The Commission shall conduct performance reviews for the Director of Elections and the Executive Secretary during each fiscal year." to "The Commission shall conduct performance reviews for the Director of Elections and the Executive Secretary during each fiscal year beginning the fiscal year for 2009."

This item was CARRIED OVER to allow a 15 day posting and to change wording of "fiscal year for 2009" to read "2008 - 2009." in the proposed text of this amendment.

Public Comment. *David Pilpel* urged the Commission to do the reviews in the fiscal year 2008 with goals for the Secretary and Director as well as an evaluation process instead to prolonging it until 2009. *Deputy City Attorney O'Leary* said that the Commission must follow the Civil Service Rules, especially for the Executive Secretary, and that she would look into the procedure and report back to the Commission.

(g) **Presentation and discussion of the President's Report for 2007.**

President Meek apologized for presenting only the draft of the first half of the Annual Report. She asked the members to let her know of any additional input in the Report and promised to have a final draft to the Commission by the January 14, 2008 meeting.

Deputy City Attorney O'Leary said that she has observed a few factual historical errors which she will correct and forward to the President.

Public Comment. *David Pilpel* reminded the Commission that the title should read "Annual Report" and not "President's Report". Additionally, Mr. Pilpel suggested adding to the report a section regarding public participation in the Commission proceedings, and a new section on challenges the Commission and the Department have ahead. *Commissioner Yu* suggested a brief comparison of the budget two years ago and last year's budget, showing changes for historical purposes. She said this might help with future budget advocacy with the Mayor. *Mr. Pilpel* suggested that for historical purposes a narrative of the successes and challenges would be good, and reminded the Commission that budget information is available elsewhere. He said that the President and Commission's take on what has transpired during the year is more important because the Annual Report is the only place, historically, that information will exist.

10. Discussion regarding items for future agendas.

A representative of the SOS to be invited to next meeting in January, letter to be drafted by Commissioner Matthews about rationale of the conditions on the Sequoia Systems Software certification for getting five voters to use the DRE equipment at each polling site.

Meeting ADJOURNED at 8:41 pm.





